

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, : CASE NO. 1:18-cr-0043  
: **REDACTED**  
Plaintiff, :  
vs. : IN-PERSON TRIAL  
: PROCEEDINGS  
YANJUN XU, also known as XU :  
YANJUN, also known as QU HUI, : 18th of OCTOBER, 2021  
also known as ZHANG HUI, : 9:12 A.M.  
:  
Defendant. : DAY 1

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE

APPEARANCES:

For the Plaintiff:

Timothy S. Mangan, Esq.  
Emily N. Glatfelter, Esq.  
Assistant United States Attorneys  
221 East Fourth Street, Suite 400  
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and  
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and  
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For the Defendant:

Ralph William Kohnen, Esq.  
Jeanne Marie Cors, Esq.  
Sanna-Rae Taylor, Esq.  
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and

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and  
Florian Miedel, Esq.  
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80 Broad Street, Suite 1900  
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Also present: Mae Harmon, Interpreter  
Yanjun Xu, Defendant

Law Clerk: Cristina V. Frankian, Esq.

Courtroom Deputy: Rebecca Santoro

Stenographer: Julie Hohenstein, RPR, RMR, CRR  
United States District Court  
200 West Second Street  
Dayton, Ohio 45402

Proceedings reported by mechanical stenography,  
transcript produced by computer.

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1 P-R-O-C-E-E-D-I-N-G-S

9:12 A.M.

2  
3 COURTROOM DEPUTY: This United States District  
4 Court for the Southern District of Ohio is now in session.  
5 The Honorable Timothy S. Black, United States District  
6 Judge, presiding.

7 THE COURT: Please be seated. Good morning. We're  
8 here in the open courtroom on the record day one of the  
9 criminal docket in the Jury trial of the matter of United  
10 States of America versus Yanjun Xu.

11 There's an interpreter present, and I wish to  
12 administer the oath to correctly interpret. If the  
13 interpreter would stand and raise your right hand.

14 Do you solemnly swear or affirm that you will  
15 accurately, correctly interpret these proceedings on behalf  
16 of the Defendant for the duration of the trial?

17 THE INTERPRETER: Yes, I do.

18 THE COURT: Good morning, and thank you. You may  
19 be seated.

20 THE INTERPRETER: Thank you, Your Honor.

21 THE COURT: It's about 9:15. Mr. Xu has joined us  
22 in the company of the Marshal. I'd like the attorneys to  
23 enter their appearances for the record. Who will appear as  
24 the attorneys for the United States of America, and with  
25 whom are you joined as your representative?

1 MR. MANGAN: Your Honor, Tim Mangan on behalf of  
2 the United States.

3 MS. GLATFELTER: Emily Glatfelter.

4 MR. MCKENZIE: And Matthew McKenzie.

5 THE COURT: Good morning to the three of you.

6 MR. MANGAN: And then joining us at counsel table  
7 is Special Agent Bradley Hull.

8 THE COURT: Very well. Good morning, sir. The  
9 four of you may be seated. In the rush to get organized, I  
10 have forgotten my mask. Would you -- Ms. Frankian, will you  
11 get my mask, please, from chambers? I'm fully vaccinated,  
12 but we're all going to wear masks. Thank you.

13 Julie Hohenstein is our court reporter. She'll be  
14 with us this week is my understanding -- provided she  
15 survives. Thank you for being present, ma'am.

16 The Jurors, we randomized list of names with  
17 numbers. It's still being prepared. We'll get it to you  
18 and to me as soon as we can.

19 First thing I want to address, we are outside the  
20 presence of the Jurors; present with the Defendant and all  
21 attorneys.

22 MR. KOHNEN: Your Honor --

23 THE COURT: Yes.

24 MR. KOHNEN: -- pardon me, but with the Court's  
25 permission, we'd like to introduce ourselves for the record.

1 THE COURT: Do you think that's important?

2 MR. KOHNEN: It's probably important for the  
3 record. It's not personally important to me, Your Honor.

4 THE COURT: Forgive me. Would the Defense enter  
5 their appearances, please?

6 MR. KOHNEN: Thank you, Judge. On behalf of our  
7 client, Mr. Xu, Ralph Kohnen.

8 MR. MIEDEL: Good morning, Your Honor, Florian  
9 Miedel for Mr. Xu.

10 MS. CORS: Good morning, Your Honor, Jeanne Cors  
11 for Mr. Xu.

12 MS. TAYLOR: Good morning, Your Honor, Sanna-Rae  
13 Taylor.

14 MR. McBRIDE: Good morning, Your Honor, Bob McBride  
15 for Mr. Xu.

16 MS. JOHNSON: Good morning, Your Honor, Amanda  
17 Johnson.

18 MS. LYNCH: Good morning, Your Honor, Courtney  
19 Lynch.

20 THE COURT: Good morning to all of you and forgive  
21 me for overlooking that step. Thank you, Mr. Kohnen. As  
22 the trial proceeds, do not be concerned about interrupting  
23 me in general, so to speak -- maybe.

24 Mr. Xu, good morning.

25 DEFENDANT YANJUN XU: Good morning.

1 THE COURT: First thing I want to address is the  
2 number of Prospective Jurors. Over the weekend, we lost  
3 another Juror, so I believe our final number is down to 40;  
4 is that correct; Ms. Frankian? Is that your sense? We may  
5 be generally there?

6 MS. FRANKIAN: As of yesterday, we had 40.

7 THE COURT: As of yesterday, we had 40. The Court  
8 had proposed selecting four Alternates, which would mean 16  
9 Jurors and four additional Peremptory strikes, two per side.

10 I learned, however, that as an initial matter if we  
11 are to socially distance Jurors 6 feet apart from one  
12 another, we can only accommodate 15 Jurors.

13 That said, we could probably get one more person in  
14 somewhere if need-be.

15 But I'd like to consider whether we should go ahead  
16 with 15 instead, which would not only accomplish social  
17 distance, but also lower the minimum number of Prospective  
18 Jurors we need for Jury selection, which may or may not be  
19 necessary. We won't know until we've addressed Challenges  
20 for Cause.

21 That also brings me to the next issue, which is the  
22 possibility that we may end up short on Jurors. If a  
23 handful of people indicate that they have some hardship they  
24 didn't disclose previously or some bias that cannot be  
25 rehabilitated, if that happens, rather than delay empaneling

1 the Jury, we could cut back the number of Alternates to two  
2 that would eliminate two Jurors on a Peremptory strike on  
3 each side, so rather than 36 people minimum, we'd only need  
4 32 minimum to complete Jury selection.

5 I want to hear from both sides. Do you object to  
6 cutting back to three Alternatives in order to promote  
7 complete social distancing? And only if it becomes  
8 necessary to ensure that we empanel a Jury today, do you  
9 object to cutting back to two Alternates.

10 Is the Government able to process that and respond?

11 MR. MANGAN: We are, Your Honor. We have no  
12 objection to either of those suggestions.

13 THE COURT: Very well. And on behalf of Defendant?

14 MR. KOHNEN: Your Honor, I'm going to need a moment  
15 to consult with my client about that with the Court's  
16 permission?

17 THE COURT: Very well. Yes.

18 (Mr. Kohnen confers with Defendant Yanjun Xu.)

19 MR. KOHNEN: Sorry for the delay, Your Honor. The  
20 Court's proposal's acceptable to us.

21 THE COURT: Thank you. The next item I wish to  
22 address on the record is plea negotiations. I'm required to  
23 do this as a matter of law.

24 The colloquy is attempted to memorialize  
25 Defendant's acknowledgement of plea offers, if any, made and

1 rejected, and Defendant's knowing decision to proceed to  
2 trial.

3 I'd like to ask the Government to State for the  
4 record all former plea offers extended, and the current  
5 offer, if any, on the table?

6 MR. MANGAN: Your Honor, on July 23, 2021, the  
7 Government extended a formal plea offer in writing to the  
8 Defense. The plea proposal is as follows:

9 We propose that Defendant plead to Counts 1 and 2  
10 of the indictment, and then under a Rule (c)(1)(C)  
11 Agreement, the parties would agree to a binding sentencing  
12 range between 210 and 240 months.

13 That was the proposal that was sent from the  
14 Government on July 23, 2021.

15 THE COURT: And did you get a response?

16 MR. MANGAN: We received no response, Your Honor,  
17 since that time.

18 THE COURT: Is that offer still on the table?

19 MR. MANGAN: Yes, Your Honor.

20 THE COURT: Very well. Thank you. For purposes of  
21 the record, I would ask Defense counsel to confirm any  
22 formal offers as stated by the Government; that the formal  
23 offer was previously conveyed to Defendant; that Defendant  
24 rejected or rejects the previously extended formal offer;  
25 that the Defendant is aware that the offer is still on the



1 table; and that so far Defendant has expressed his intent to  
2 reject the offer? On behalf of the Defense?

3 MR. KOHNEN: May I have just a moment, Your  
4 Honor?

5 THE COURT: Yes.

6 (Mr. Kohnen confers with Defendant Yanjun Xu.)

7 MR. KOHNEN: Your Honor, we've discussed that offer  
8 on several occasions with our client including 10 seconds  
9 ago, and he rejects the offer.

10 THE COURT: Very well. I'm required to ask. I  
11 have to ask Mr. Xu directly.

12 Are you aware that that offer is on the table, and  
13 do you reject it? I'm required by law to ask.

14 DEFENDANT YANJUN XU: Yes.

15 THE COURT: Thank you. Next issue I want to  
16 address is restraints. Because the Jurors will be socially  
17 distanced, and, therefore, seated in the gallery during voir  
18 dire and throughout trial, it's a greater likelihood that  
19 leg shackles may be seen by the Jurors.

20 Therefore, the Court has elected to forego leg  
21 shackles. The interests of security do not outweigh the  
22 increased chance of visibility.

23 Can the Defense confirm that they are, however,  
24 willing and that Mr. Xu is without restraint, no leg  
25 shackles included?

1 MR. KOHNEN: Yes, Your Honor. Thank you for that.

2 THE COURT: Very well. Mr. McBride's arguments  
3 moved me.

4 MR. McBRIDE: Thank you, Your Honor.

5 THE COURT: To my knowledge, there are no motions  
6 pending. We've ruled by notation order and written order.  
7 I expect written decisions in due course on the Motion in  
8 Limine, Motion regarding Co-Conspirators, and Motion to  
9 Dismiss; but they've been ruled on, for purposes of the  
10 record, by notation order.

11 Does the Government acknowledge that?

12 MR. MANGAN: We do, your Honor. Thank you.

13 THE COURT: And the Defense as well?

14 MR. KOHNEN: Yes, Judge Black.

15 THE COURT: Very well. I want to address on the  
16 record Defendant's request for redactions. During the final  
17 pretrial counsel, Defense requested redaction of the  
18 classification on the Government's exhibit.

19 The Court advised parties by an E-Mail that same  
20 day that the Court, quote, is not going to order the  
21 redaction of designations on the Government's exhibits.

22 Although the Defense indicated that an instruction  
23 to the Jurors might be more problematic than helpful. If  
24 the Defense would like to propose an instruction that might  
25 be acceptable, the Court is willing to provide it to the

1 Jury upon my approval, end quote.

2 So for the record, we're memorializing the Court's  
3 ruling on that request; and while we have not received any  
4 indication that the Defense wants any sort of instruction,  
5 the Court remains open to it.

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Is there something we should address at this time  
from the Government's perspective or is the issue not yet  
ripe or has it been mooted?

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MR. MANGAN: I think, Your Honor, I think we can  
wait on that issue.

19

THE COURT: Wait?

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MR. MANGAN: Wait.

21

THE COURT: Very good.

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THE COURT: Well, I'd like to discuss it as soon as

1 we can. We don't need to do it at this moment.

2 MR. MANGAN: All right.

3 THE COURT: Is the Defense comfortable with that  
4 approach?

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10 THE COURT: Very well. You comfortable proceeding  
11 now with that issue in limbo?

12 MR. KOHNEN: Again, yes. Thank you, Judge.

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17 I believe I've walked through the issues I wished  
18 to address before we recess, get you the re-randomized list  
19 with numbers and pause to get ready for voir dire.

20 Let the record reflect on the courtroom clock it is  
21 9:29. Is there anything the Government needs to bring to  
22 the Court's attention before we recess for those purposes  
23 and move closely toward commencing voir dire?

24 MR. MANGAN: The only thing we have, Your Honor, is  
25 I know the Court's waiting on whether or not the parties

1 have a written stipulation.

2 We discussed this during the final pretrial as to  
3 some of the terms. The Government presented a written  
4 proposal of that stipulation Friday morning. We have not  
5 received a response from the Defense despite few requests.

6 THE COURT: And in what regard was the stipulation?

7 MR. MANGAN: This pertained to the authen -- part  
8 of it pertained to the venue and jurisdiction, which was  
9 discussed, as well as that certain documents were properly  
10 authenticated under Rule 901 and 902, as well as the  
11 authenticity and admissibility of a few other certain  
12 exhibits, and then we also added a proposal related to the  
13 stipulations -- excuse me -- the translations.

14 THE COURT: And do you have another stipulation  
15 about IP addresses?

16 MR. MANGAN: That, Your Honor, we did provide. It  
17 wasn't in the proposed stipulation we sent on Friday. We  
18 did send the information regarding the IP addresses by  
19 letter to the Defense yesterday along with the attachment  
20 stating what the Government would agree to.

21 THE COURT: Very well, and I now recall that we  
22 asked you to review the Court's proposed summary of the  
23 case. The Defense responded with some proposed edits, and  
24 we have heard nothing from you. Where are we on that?

25 MR. MANGAN: We have, we have no evidence, and we

1 have no objection to their proposed edits.

2 THE COURT: You have no evidence --

3 MR. MANGAN: No, I'm sorry. We have no edits. We  
4 have no changes ourselves. We saw the proposed changes from  
5 the Defense. We have no objection to their proposal.

6 THE COURT: Very well. So why didn't you tell me  
7 that by E-Mail?

8 MR. MANGAN: I apologize, Your Honor. We should  
9 have --

10 THE COURT: When the Court sends the lawyers  
11 E-Mails during the progress of trial with inquiries, I need  
12 a response. Thank you.

13 Where are we on the stipulations from the  
14 Defendant's perspective?

15 MR. KOHNEN: Judge, your second question, Mr.  
16 Mangan was more prescient perhaps than you may know. We  
17 were about to -- literally about to push the button  
18 agreeing to the stipulations when we got the letter from Mr.  
19 Mangan some time around 2:30 in the afternoon yesterday.

20 Judge, we didn't have enough time, frankly, to see  
21 whether that new and very important information -- I would  
22 label it Brady material -- would impact our position on the  
23 stipulations or not.

24 We worked on it probably for three or four hours  
25 into last evening. We do want to be heard on the subject

1 generally. We're going to suggest after Jury selection and  
2 opening statements, we perhaps could get a moment of the  
3 Court's time.

4 However, a very long winded way of saying, that  
5 last minute, a bit of very important information perhaps --  
6 I can't say yet whether it has -- but perhaps has  
7 re-oriented our position with respect to these stipulations.

8 May I just a moment, Your Honor?

9 THE COURT: Yes.

10 (Mr. Kohnen confers with Mr. McBride.)

11 MR. KOHNEN: Always wise to consult with my  
12 colleague, Mr. McBride, Your Honor. I think ultimately that  
13 there's a good chance we're going to stipulate two things  
14 that a record's custodian would otherwise have to come in  
15 and say, but you'll understand that we have to make darn  
16 sure of that at this point.

17 THE COURT: I'll understand what?

18 MR. KOHNEN: That we have to make darn sure of that  
19 at this point.

20 THE COURT: Indeed. So soon?

21 MR. KOHNEN: Yes, Your Honor, soon.

22 THE COURT: Very well. I'm smiling behind the  
23 mask. I asked if the Government had anything for me before  
24 we recess? Is there is anything further from the  
25 Government?

1 MR. MANGAN: No, Your Honor.

2 THE COURT: Does the Defense have any items they  
3 wish to address that we haven't addressed before we recess?

4 MR. KOHNEN: No. Thank you, Judge.

5 THE COURT: Very well. We're going to recess. Is  
6 30 minutes appropriate or more or less?

7 MR. FRANKIAN: I think 20 to 30 minutes should be  
8 fine.

9 THE COURT: We're going to recess for 20 minutes  
10 unless we whisper to you at that point we need ten more  
11 minutes. So we're in recess.

12 COURTROOM DEPUTY: All rise. This court is now in  
13 recess.

14 (Court was in recess at 9:34 a.m. and resumed at 10:12 a.m.)

15 COURTROOM DEPUTY: All rise. Court is back in  
16 session pursuant to the recess.

17 THE COURT: Please be seated. We're back in the  
18 courtroom on the record. Government lawyer and team is  
19 here. Defense lawyer and team and the Defendant and the  
20 interpreter are here.

21 We are ready, I believe, to go get the 40  
22 Prospective Jurors. Is the Government ready or got anything  
23 else before we proceed in that way?

24 MR. MANGAN: We are ready, Your Honor.

25 THE COURT: And the Defense?



1 MR. KOHNEN: Indeed, Your Honor, we're ready.

2 THE COURT: Very well. Ms. Santoro, we call for  
3 the Prospective Jurors. We'll sit quietly here off the  
4 record.

5 (Discussion held off the record.)

6 COURTROOM DEPUTY: All rise for the Jury.

7 (Prospective Jurors entered the courtroom.)

8 THE COURT: As the Jurors join us, you may be  
9 seated. As the Jurors join us, you may be seated.  
10 Prospective Jurors that have joined us, you may all be  
11 seated.

12 Good morning, ladies and gentlemen. I am Judge  
13 Timothy S. Black, one of the judges of this Federal Court.  
14 We're here in the United States District Court for the  
15 Southern District of Ohio. We're on the record in session  
16 on the criminal case of the United States of America versus  
17 Yanjun Xu.

18 I want to welcome you all here today. I'll be  
19 responsible for presiding at this proceeding for which  
20 you've been summonsed.

21 I want to thank you and welcome you. I realize  
22 that being here presents some degree of inconvenience for  
23 all of you, but I assure you that your presence is of the  
24 upmost importance to the proceedings that are to begin here  
25 today.

1 I'd like to say that Jury service is a sacrifice  
2 required by democracy, but I acknowledge in the first  
3 instance that we have interrupted your lives, and we are  
4 grateful for your presence.

5 I want to introduce you to some of the people in  
6 the courtroom. I'm going to start with the people who work  
7 for me.

8 Rebecca Santoro is our courtroom deputy. She  
9 administers oaths to Prospective Jurors, to those selected  
10 to serve on the Jury, and to witnesses. She handles the  
11 exhibits during trial. She opens, recesses, and adjourns  
12 court. I couldn't do my job without her.

13 Julie Hohenstein is one of our court reporters.  
14 She is and will continue to take down every word spoken  
15 during the course of the proceedings by stenotype machine.

16 My law clerk -- my career law clerk is Cristina  
17 Frankian. She's an attorney. She assists me with all legal  
18 work, including research and court orders, and I absolutely  
19 could not do my job without her.

20 In a few minutes I'll ask the other persons who are  
21 present in the well of the courtroom to introduce  
22 themselves; but I first want to explain why you're here, and  
23 what we're doing at this point in time.

24 You're here today as Potential Jurors in the case  
25 of the United States of America versus Yanjun Xu. This is a

1 criminal case where the United States has alleged that the  
2 Defendant, Yanjun Xu, committed four Federal offenses,  
3 including, one, Conspiracy to Commit Economic Espionage;  
4 Two, Conspiracy to Commit Trade Secret Theft;  
5 Three, Attempted Economic Espionage; and  
6 Four, Attempted Trade Secret Theft.

7 The Defendant, Mr. Xu, denies the charges. He is  
8 presumed innocent.

9 You must bear in mind that the Defendant is  
10 presumed innocent unless and until the Government proves by  
11 competent evidence beyond a reasonable doubt his guilt.

12 Proof beyond a reasonable doubt means proof which  
13 is so convincing that you would not hesitate to rely and act  
14 upon it in making the most important decisions in your own  
15 lives.

16 Today we hope to be complete with Jury selection by  
17 early afternoon. Those of you selected as Jurors in this  
18 case will be given some preliminary instructions and then  
19 perhaps we will hear opening statements from the lawyers  
20 today.

21 At some point before opening statements, we will  
22 also break for lunch. This is going to be a substantial  
23 trial, and I know that with COVID, among other things, it's  
24 a difficult time to be in a new environment; but I want  
25 you all to know that the court, its judge, will do

1 everything possible to ensure that you are safe and  
2 comfortable.

3 First of all, I'm pleased to tell you that every  
4 Prospective Juror in this room is fully vaccinated and has  
5 indicated that they're willing to wear a mask during the  
6 Court proceedings. Same goes for the lawyers and staff. I  
7 hope that gives you some level of comfort.

8 Additionally, although we couldn't accomplish it at  
9 this very moment with 40 plus Prospective Jurors, those of  
10 you that are selected will be seated in a socially distanced  
11 manner. We won't have 16 of you in the box, and we'll be  
12 providing you lunch each day, so you won't have to go in and  
13 out constantly.

14 But, like I said, this is going to be a long trial,  
15 and that is in part why I asked everyone to fill out a  
16 lengthy questionnaire.

17 As I indicated on the questionnaire and the  
18 accompanying letter, this trial may go as long as  
19 December 1, 2021. I don't think it will, but we need to be  
20 prepared for that.

21 If you're selected as a Juror, please note that  
22 we're not going to be in trial on Thursday, November 11 in  
23 observance of Veterans Day. We're also going to be off for  
24 Thanksgiving on Wednesday, Thursday, and Friday. So the  
25 week of Thanksgiving we're not in court on Wednesday,

1 November 24; Thursday, November 25; and Friday, November 26  
2 to be certain that you have an opportunity to get a full  
3 plate of turkey and a short break.

4 We may well also take a half day off on November 2  
5 so we all have a chance to vote. You can get that behind  
6 you early, that's a credit to you.

7 Other than the days that I've just identified,  
8 we'll likely be in court every day, Monday through Friday.  
9 We generally start every day 9:30 a.m., and we'll try to end  
10 around 4:30 p.m.

11 That means you'll need to be at the courthouse  
12 every morning by 9:15 a.m. at the latest, so we can bring  
13 you into the courtroom at 9:30 if we're able.

14 Each day, there will be an hour and a fifteen  
15 minute break for lunch from about noon until 1:15. We'll  
16 also take two 15-minute breaks; one mid-morning break about  
17 10:30 to 10:45, and one break in the afternoon about 2:45  
18 until three.

19 So introduction to voir dire. As I mentioned,  
20 you're all here as Prospective Jurors in this case. The  
21 process of Jury selection is known as voir dire, and it's  
22 the parties opportunity with the Court's assistance to  
23 determine which 15 of you will be chosen to sit as Jurors in  
24 this case.

25 The words voir dire literally mean to see and to

1 say, but they've come to mean to speak the truth. That's  
2 exactly what we must do here.

3 The process of voir dire requires the Court -- the  
4 Judge -- and then the attorneys to ask questions of you in  
5 order to determine whether you should participate as a Juror  
6 in this case or whether it would be better to excuse you  
7 from service in this particular case. In response to the  
8 questions posed by the Court and counsel, you must speak the  
9 truth.

10 Those of you who are chosen as Jurors will have an  
11 indispensable and unique function to perform. You'll be  
12 carrying out a mandate of the United States Constitution,  
13 which states that any person accused of a crime is entitled  
14 to a fair trial by an impartial Jury. Thus, under the  
15 Constitution, it will be up to you to decide the case.

16 Before I go further, I would like now to ask the  
17 parties to stand and introduce themselves. I'll start with  
18 the Government.

19 On behalf of the Government, would you please  
20 stand, introduce yourselves, and those present at counsel  
21 table?

22 MR. MANGAN: Good morning, everyone. My name is  
23 Tim Mangan. I'm an Assistant U. S. Attorney here in  
24 Cincinnati.

25 MS. GLATFELTER: Good morning. My name is Emily

1 Glatfelter. I'm also an Assistant U.S. Attorney here in  
2 Cincinnati.

3 MR. McKENZIE: Good morning. My name is Matthew  
4 McKenzie. I'm a trial attorney with the Department of  
5 Justice.

6 MR. HULL: Good morning. My name is Bradley Hull.  
7 I'm a Special Agent with the F.B.I.

8 THE COURT: Thank you. Would you please be seated.  
9 Would Defense counsel please stand and introduce yourselves  
10 and your client?

11 MR. KOHNEN: Yes. Thank you, Your Honor. Ladies  
12 and gentlemen, good morning. My name is Ralph Kohnen. I'm  
13 an attorney here in Cincinnati, and I represent our client,  
14 Mr. Xu.

15 You'll hear a number of different pronunciations,  
16 but I've been struggling to say it right, and I just got the  
17 nod from Mr. Xu. Would you stand and introduce yourself?  
18 Say good morning to the Jury.

19 DEFENDANT YANJUN XU: Good morning.

20 THE COURT: And with us is a translator, who's been  
21 phenomenal. Her name is Mae Harmon.

22 THE INTERPRETER: Good morning.

23 MR. MIEDEL: Good morning. My name is Florian  
24 Miedel. I'm also an attorney for Mr. Xu.

25 MS. CORS: Good morning, everyone. My name is

1 Jeanne Cors, and I'm also representing Mr. Xu.

2 MS. TAYLOR: Good morning, everyone. My name is  
3 Sanna-Rae Taylor, and I'm an attorney representing Mr. Xu.

4 MS. JOHNSON: Good morning. My name is Amanda  
5 Johnson, and I am an attorney representing Mr. Xu.

6 MR. McBRIDE: Good morning, ladies and gentlemen.  
7 My name is Bob McBride. I'm one of the attorneys  
8 representing Mr. Xu.

9 MS. LYNCH: Good morning. My name is Courtney  
10 Lynch, and I'm also an attorney representing Mr. Xu.

11 THE COURT: Thank you. Mr. Xu, did I pronounce  
12 your name correctly?

13 DEFENDANT YANJUN XU: Almost.

14 THE COURT: Will you say it to me? And forgive me  
15 for my lack of pronunciation skills. Just stand up and tell  
16 me your name?

17 DEFENDANT YANJUN XU: Xu.

18 THE COURT: Xu?

19 DEFENDANT YANJUN XU: Xu.

20 THE INTERPRETER: Xu.

21 DEFENDANT YANJUN XU: Xu.

22 THE COURT: Xu? He's the Defendant. He's well  
23 represented by counsel. If I mispronounce his name, it's on  
24 me and nobody else. You may be seated. Thank you.

25 At this time I'm going to ask Ms. Santoro to



1 administer the oath to the Prospective Jurors. This oath is  
2 simply to make certain that your answers to our questions  
3 are complete and truthful.

4 To get your juices flowing, would you stand,  
5 please, and raise your right hand for the oath?

6 COURTROOM DEPUTY: You, and each of you, do  
7 solemnly swear or affirm that the answers you give to the  
8 questions in this proceeding shall be the truth, the whole  
9 truth, and nothing but the truth. Please respond by saying  
10 I do.

11 ALL PROSPECTIVE JURORS: I do.

12 THE COURT: Thank you. You may be seated. Now,  
13 that you've been sworn, we can actually formally begin the  
14 process of selecting 15 Jurors.

15 The process is simple enough. I'm going to ask you  
16 some questions, and then the lawyers for each side get an  
17 opportunity to ask questions; and our questions are designed  
18 to make sure that you have no bias or prejudice for or  
19 against either side.

20 Some of these questions may seem personal. Please  
21 do not be offended. If a question seems personal or if  
22 you're particularly sensitive about answering a specific  
23 question, please know that the attorneys are not trying to  
24 make you uncomfortable or to embarrass you, so you must not  
25 hold it against them.

1           The attorneys are required to ask questions they  
2 believe will ensure empaneling a full and impartial Jury in  
3 this case.

4           If anybody asks you a question that you're not  
5 comfortable answering in open court, you may approach the  
6 bench and discuss your answers in private.

7           Also, always keep in mind that voir dire means to  
8 speak the truth. Even if the answer to your question means  
9 you might have a bias, do not hesitate to answer that  
10 question truthfully.

11           Your own desire to participate in this case cannot  
12 outweigh the fact that the fairness and impartiality of each  
13 Juror is crucial to a fair trial.

14           After the lawyers have had an opportunity to  
15 question you, after I have, we'll take a break -- which we  
16 call a recess -- while I'll confer with the lawyers and the  
17 parties; and when we come back in session -- reconvene --  
18 I'll announce the numbers of those of you who have been  
19 selected.

20           If you're not chosen for the Jury, you must  
21 understand that this is not a reflection on your character,  
22 your integrity, or your fitness to serve.

23           Each side is afforded the opportunity to excuse  
24 Jurors for any reason that is not unlawful or for no reason  
25 at all. So if you're excused, please do not feel slighted

1 or offended.

2 Once we have seated 15 Jurors, we'll have our Jury,  
3 and those 15 will be sworn in to Jury duty. We're now  
4 prepared to begin.

5 Please listen carefully to the questions that I and  
6 the attorneys are about to ask. Questions will be addressed  
7 to everyone -- both those in the Jury box and those in the  
8 back in the gallery.

9 If your answer to any of the questions is yes,  
10 please raise your hand, and I'll call on you. When I call  
11 on you, please stand so we can hear you, and first announce  
12 the Juror Number you were given this morning. We may then  
13 ask you some follow-up questions. I believe we have  
14 microphones that we can use to assist you, if required.

15 Please do not forget to announce your Juror Number  
16 when we call on you. In our list all Jurors are organized  
17 numerically, so it makes it very difficult to keep track of  
18 your responses if you do not give us your Juror Number. I  
19 ask you to stand purely for the reason that I can probably  
20 hear you better.

21 When speaking up, speak as loud as you can when  
22 answering a question. Particularly with masks on, it's very  
23 hard to hear unless you really project your voice, and I  
24 believe we have microphones that will help; but if at any  
25 point you can't hear the questions being asked by me or the

1 attorneys, please raise your hand and let us know.

2 Is there anybody having trouble hearing me?

3 (No Prospective Juror raised their hand.)

4 THE COURT: Very well. All right. As you know,  
5 the Government is represented by Attorneys Emily Glatfelter,  
6 Tim Mangan, and Matthew McKenzie. Ms. Glatfelter and Mr.  
7 Mangan work for the United States Attorney's Office. Mr.  
8 McKenzie is with the Department of Justice.

9 Also seated at counsel table and introduced to you  
10 is the Government's representative in this case, F.B.I.  
11 Special Agent Bradley Hull.

12 Are you, or any member of your immediate family,  
13 personally acquainted with, related to by blood or marriage,  
14 or connected in any way with either of the attorneys for the  
15 Government or with Agent Hull?

16 (No Prospective Juror raised their hand.)

17 THE COURT: No hands. Does anyone personally know  
18 the Government's attorneys or Agent Hull in any capacity?

19 (No Prospective Juror raised their hand.)

20 THE COURT: No hands. Does anyone here work for or  
21 do you know someone who works for the United States  
22 Attorney's Office?

23 (No Prospective Juror raised their hand.)

24 THE COURT: No answers. Yes. Yes, sir?

25 PROSPECTIVE JUROR: I'm Juror 21.

1 THE COURT: Yes, sir.

2 PROSPECTIVE JUROR: I work for the United States  
3 Department of Agriculture, and I interact frequently with  
4 the United States Assistant Attorney Bill King.

5 THE COURT: And do you think you could be a fair  
6 and impartial Juror when although on occasion you work with  
7 them and specifically Mr. King?

8 PROSPECTIVE JUROR: I do.

9 THE COURT: Thank you, sir. The Defendant, Yanjun  
10 Xu, and his attorneys, Ralph Kohnen, Jeanne Cors, Bob  
11 McBride, Sanna-Rae Taylor, all of whom are with the Taft Law  
12 Firm, as well as Attorney Florian Miedel of Miedel Law Firm,  
13 the interpreter is here next to the Defendant, Mae Harmon.

14 First, are you, or any member of your immediate  
15 family, personally acquainted with, related to by blood or  
16 marriage, or connected in any way with Yanjun Xu?

17 (No Prospective Juror raised their hand.)

18 THE COURT: No hands. Does anyone personally know  
19 Yanjun Xu in any capacity, the Defendant?

20 (No Prospective Juror raised their hand.)

21 THE COURT: No hands. Are you, or is any member of  
22 your immediate family, personally acquainted with, related  
23 to by blood or marriage, connected in any way with any of  
24 the Defense attorneys?

25 (No Prospective Juror raised their hand.)

1 THE COURT: No hands. Does anyone personally know  
2 anyone who works at Taft, the law firm, in any capacity?

3 (Prospective Jurors raised their hand.)

4 THE COURT: Yes, sir?

5 PROSPECTIVE JUROR: Juror Number 14.

6 THE COURT: Yes.

7 PROSPECTIVE JUROR: I know several attorneys at  
8 Taft Law, including Ron Christian and Marcia Andrew.

9 THE COURT: And are these friends or professional  
10 colleagues?

11 PROSPECTIVE JUROR: One is a -- one represents the  
12 foundation that I'm the president of, Ron Christian.

13 THE COURT: And does your relationship with him  
14 affect your ability to be a fair and impartial Juror?

15 PROSPECTIVE JUROR: No.

16 THE COURT: What is the foundation?

17 PROSPECTIVE JUROR: It's the foundation for Atrium  
18 Medical Center a hospital in Middletown, Ohio.

19 THE COURT: Thank you for speaking up, sir.

20 PROSPECTIVE JUROR: Thank you.

21 THE COURT: Does anyone know Ms. Harmon, the  
22 interpreter, in any capacity -- we got another hand in the  
23 back. I'm sorry, sir.

24 PROSPECTIVE JUROR: Juror Number 39. I know Gregg  
25 Rogers, who is an attorney with Taft Law Firm.

1           THE COURT:   So do I.   Would that knowledge and  
2           relationship affect your ability to be a fair and impartial  
3           Juror?

4           PROSPECTIVE JUROR:   No, sir.

5           THE COURT:   Does he represent you or your company?

6           PROSPECTIVE JUROR:   No, sir.

7           THE COURT:   Is a friend?

8           PROSPECTIVE JUROR:   He's a member of my church.

9           THE COURT:   Very well.   Thank you for speaking up.  
10          Does anyone know Ms. Harmon in any capacity?

11          (No Prospective Juror raised their hand.)

12          THE COURT:   No hands.   I'm going to read a list of  
13          people who may be witnesses in this case.   There are a bunch  
14          of names.   I'm going to ask you if they sound familiar or if  
15          you think you know somebody by that name.

16          James Mulvenon?

17          (No Prospective Juror raised their hand.)

18          THE COURT:   No hands.   Stijn Berrevoets?

19          (No Prospective Juror raised their hand.)

20          THE COURT:   No hands.   Todd Vokas?

21          (No Prospective Juror raised their hand.)

22          THE COURT:   Agent Bradley Hull?

23          (No Prospective Juror raised their hand.)

24          THE COURT:   Jason Wang?

25          (No Prospective Juror raised their hand.)

1 THE COURT: David Zheng?

2 (No Prospective Juror raised their hand.)

3 THE COURT: Nick Kray?

4 (No Prospective Juror raised their hand.)

5 THE COURT: Eric Ritter?

6 (No Prospective Juror raised their hand.)

7 THE COURT: Rizwan Ramakdawala?

8 (No Prospective Juror raised their hand.)

9 THE COURT: Arthur Gao?

10 (No Prospective Juror raised their hand.)

11 THE COURT: Michael Reigle?

12 (No Prospective Juror raised their hand.)

13 THE COURT: Sun Li?

14 (No Prospective Juror raised their hand.)

15 THE COURT: Adam James?

16 (No Prospective Juror raised their hand.)

17 THE COURT: Frederic Hascoet?

18 (No Prospective Juror raised their hand.)

19 THE COURT: James Olson?

20 (No Prospective Juror raised their hand.)

21 THE COURT: Lily Tang Williams?

22 (No Prospective Juror raised their hand.)

23 THE COURT: Colonel James A. Schnell?

24 (No Prospective Juror raised their hand.)

25 THE COURT: I saw no hands. Is anyone related to



1 any of the individuals that I just named?

2 (No Prospective Juror raised their hand.)

3 THE COURT: Is anyone personally acquainted with  
4 any of those -- these persons or do you have any knowledge  
5 of them directly or in-directly through your social,  
6 business, or personal, or professional lives?

7 (No Prospective Juror raised their hand.)

8 THE COURT: Does anyone know any of my staff in any  
9 capacity: Rebecca Santoro, Courtroom Deputy?

10 (No Prospective Juror raised their hand.)

11 THE COURT: Julie Hohenstein, one of my court  
12 reporters?

13 (No Prospective Juror raised their hand.)

14 THE COURT: Cristina Frankian, my law clerk?

15 (No Prospective Juror raised their hand.)

16 THE COURT: Do any of you know anyone who works in  
17 the courthouse, this courthouse?

18 (Prospective Jurors raised their hand.)

19 THE COURT: There's a hand up.

20 PROSPECTIVE JUROR: Juror Number 21. In my  
21 professional capacity you're deciding a matter for the  
22 United States Department of Agriculture versus a property  
23 owner in Clermont County.

24 THE COURT: Right. Is that going to affect your  
25 ability to be a fair and impartial Juror?

1 PROSPECTIVE JUROR: No, sir.

2 THE COURT: Very well. Thank you. Anyone else  
3 know anyone in the courthouse?

4 (No Prospective Juror raised their hand.)

5 THE COURT: Well, for Pete's sake. Do any of you  
6 know me?

7 (Laughter.)

8 (No Prospective Juror raised their hand.)

9 THE COURT: Other than the gentleman who spoke who  
10 doesn't know me per se, I don't believe, do you, sir?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: Very well. Do any of you know or  
13 possibly recognize any of your fellow Jurors here today?

14 (No Prospective Juror raised their hand.)

15 THE COURT: No response. So one final time, do any  
16 of you recognize any of the names that have been mentioned  
17 here today?

18 (No Prospective Juror raised their hand.)

19 THE COURT: Do you know anyone you've been  
20 introduced to here today?

21 (No Prospective Juror raised their hand.)

22 THE COURT: Do you know anyone you've seen in the  
23 courthouse today?

24 (No Prospective Juror raised their hand.)

25 THE COURT: Or do you know anyone that you see in

1 this courtroom currently that you haven't identified?

2 (No Prospective Juror raised their hand.)

3 THE COURT: Very well. Do any of you personally  
4 know the Defendant, Yanjun Xu, in any capacity?

5 (No Prospective Juror raised their hand.)

6 THE COURT: No response. Ms. Frankian, can you  
7 approach, please?

8 (The Court confers with Ms. Frankian.)

9 THE COURT: The Defendant in this case, Yanjun Xu,  
10 has been charged with four Federal offenses, I told you:  
11 Conspiracy to Commit Economic Espionage, Conspiracy to  
12 Commit Trade Secret Theft, Attempted Economic Espionage,  
13 Attempted Trade Secret Theft. The Defendant has pled not  
14 guilty to the charges, and the Defendant is presumed  
15 innocent.

16 Does anyone have any personal interest of any kind  
17 in this case or in this Defendant or do you know anyone who  
18 may have such a special interest?

19 (No Prospective Juror raised their hand.)

20 THE COURT: Has anyone here served as a Juror in a  
21 criminal or civil case or as a member of the Grand Jury in  
22 either Federal or State court?

23 (No Prospective Juror in the Jury box raised their hand.)

24 THE COURT: I see no hands in the box.

25 (Prospective Jurors raised their hand.)

1 THE COURT: I see one in the gallery. Sir?

2 PROSPECTIVE JUROR: Juror 20. I have served on a  
3 Jury before in Hamilton County Courts.

4 THE COURT: If you'll keep your voice up. You  
5 served as a Juror before. Is that what you said, sir?

6 PROSPECTIVE JUROR: Yes. Yes.

7 THE COURT: And without telling me the outcome,  
8 don't tell me the outcome, can you please tell me what kind  
9 of case it was? Do you know if it was criminal or civil?

10 PROSPECTIVE JUROR: It was criminal.

11 THE COURT: Very well. Were you the foreperson?

12 PROSPECTIVE JUROR: I was not.

13 THE COURT: Do you understand that in a case like  
14 you served, a criminal case, and in this case, which is a  
15 criminal case, that the burden of proof is that the  
16 prosecutor must prove the Defendant's guilt beyond a  
17 reasonable doubt?

18 PROSPECTIVE JUROR: I certainly understand that.

19 THE COURT: And is there anything about your prior  
20 service in the other case that would affect your ability to  
21 be a fair and impartial Juror in this case?

22 PROSPECTIVE JUROR: I don't see how.

23 THE COURT: You said, I don't see how; is that  
24 right?

25 PROSPECTIVE JUROR: No. I said I don't see how.

1 The, the -- the more exact easy answer is no.

2 THE COURT: All right. And I'm not picking on you.  
3 I'm an old man. I can't hear you.

4 Would your service on the prior case affect your  
5 ability to be a fair and impartial Juror in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: And you're going to think I'm really  
8 old, but what's your Juror Number?

9 PROSPECTIVE JUROR: 20.

10 THE COURT: Thank you, sir. Is there anyone else?

11 (No Prospective Juror raised their hand.)

12 THE COURT: Very well. Are any of you currently  
13 employed or were you previously employed by any Federal,  
14 State, or local law enforcement agency, i.e., e.g., the  
15 F.B.I., military police, State Highway Patrol, county  
16 sheriff, any previous -- any police department?

17 I'm asking about you. Is there anyone who is in or  
18 has that employment history?

19 (No Prospective Juror raised their hand.)

20 THE COURT: I see no hands. I know some of you  
21 indicated on your questionnaires that you have a family  
22 member or members who are currently or were previously  
23 employed with a Federal, State, or local law enforcement  
24 agency.

25 From those of you who have family members who are

1 or were members of law enforcement, do you believe that you  
2 will be unable to serve as a fair and impartial Juror on  
3 that basis?

4 (No Prospective Juror raised their hand.)

5 THE COURT: I see no hands. Would anyone here have  
6 trouble returning a verdict of not guilty if the Government  
7 fails to prove its case beyond a reasonable doubt?

8 (No Prospective Juror raised their hand.)

9 THE COURT: Would anybody here have trouble  
10 returning a verdict of guilty if the evidence proves guilt  
11 beyond a reasonable doubt?

12 (No Prospective Juror raised their hand.)

13 THE COURT: Okay. Does anyone have any prior  
14 knowledge or information about this particular case? This  
15 includes knowledge gained from personal contacts from the  
16 media or from the Internet.

17 (No Prospective Juror raised their hand.)

18 THE COURT: No hands. Very well. In the  
19 questionnaire that we sent to each of you, there was a  
20 question asking you about any opinions or beliefs you may  
21 have regarding China, the Chinese culture, Chinese Communist  
22 Party, or the Chinese Government, and many of you said that  
23 you did have certain opinions or beliefs.

24 But most importantly, most, if not all, of you  
25 answered the next question by saying that your opinions or

1 beliefs about China would not impact your ability to serve  
2 as an impartial Juror.

3 The specific question specifically ask, quote, in  
4 the event any party, attorney, or witness in this case is a  
5 Chinese citizen, or if any of the evidence relates to China,  
6 do you believe that your opinions or beliefs would impact  
7 your ability to serve as an impartial Juror?

8 Most, if not all, of you said no. I want to ask  
9 everyone that question again, because it's incredibly  
10 important.

11 Mr. Xu is a Chinese citizen, and in this case you  
12 will hear about China and the Chinese Government, and you'll  
13 likely hear testimony of witnesses from different countries  
14 and of different ethnicities; but China and the Chinese  
15 Government are not on trial here.

16 Mr. Xu is the Defendant charged in this case, and  
17 he is presumed innocent. I want to make sure that everyone  
18 understands and acknowledges, accepts this critical point,  
19 so I want to ask you again, is there anyone here who thinks  
20 they cannot serve as a fair and impartial Juror or anyone  
21 who thinks they cannot presume Mr. Xu's innocence due to  
22 your opinions and beliefs about the China or Chinese  
23 Government?

24 (No Prospective Juror raised their hand.)

25 THE COURT: I see no hands. Is there anyone here

1 who believes that their opinions about people of different  
2 ethnicities and nationalities would interfere with their  
3 ability to serve as a fair and impartial Juror?

4 (No Prospective Juror raised their hand.)

5 THE COURT: Is there any reason in your mind why  
6 you cannot hear and consider the evidence in this case and  
7 render a fair and impartial verdict?

8 (No Prospective Juror raised their hand.)

9 THE COURT: I see no hands. Does anyone have  
10 feelings, thoughts, inclinations, or beliefs which might  
11 influence or interfere with your full and impartial  
12 consideration in which might influence you either in favor  
13 of or against the Defendant or the Government?

14 (No Prospective Juror raised their hand.)

15 THE COURT: No hands. As a Juror, you will be  
16 required to take the law as the Court -- as this Judge  
17 instructs you without any reservation and with disregard of  
18 any other ideas, notions, or beliefs about the law that you  
19 may have and apply the facts based on the evidence in this  
20 case to the Judge's instructions on the law only.

21 Is there anyone here who believes -- does not  
22 believe he or she can do this? So if I tell you the law  
23 says X, and you say, well, I didn't think that was right. I  
24 don't think it should be. Will you follow my instruction of  
25 the law and set aside any other thoughts?



1 (Prospective Jurors nod heads affirmatively.)

2 THE COURT: Very well. Is there anyone here who  
3 cannot recognize and accept the proposition that only Jurors  
4 can judge the facts? The Jury is going to decide what the  
5 facts are. I'm not. You are.

6 And then I will tell you the law, and you'll apply  
7 the facts to the law recognizing that I'm the sole judge of  
8 the law.

9 Is there anyone who cannot abide by that?

10 (No Prospective Juror raised their hand.)

11 THE COURT: No hands. If you are selected as a  
12 Juror in this case, can you extend the presumption of  
13 innocence to the Defendant?

14 That is, can you presume, as you must, that the  
15 Defendant is innocent of the charge or a charge unless and  
16 until guilt is established by proof that convinces you  
17 beyond a reasonable doubt of the guilt? If you cannot do  
18 this, please hold up your hand.

19 (No Prospective Juror raised their hand.)

20 THE COURT: Because the Defendant is presumed  
21 innocent, he has no obligation to do or say anything to  
22 prove his innocence; therefore, the Defendant has the right  
23 to choose not to present evidence and/or not to testify.

24 And if he chooses to exercise the right not to  
25 testify or not to present any evidence, no Juror can hold

1       that decision against him.

2               We asked a question about should a Defendant  
3       testify. You guys answered it. I'm telling you, as a  
4       matter of law, like anyone charged with a crime in this free  
5       country, he's presumed innocent unless and until guilt is  
6       established beyond a reasonable doubt; and he has no  
7       obligation to present evidence or to testify or to tell his  
8       side of the story, and you cannot hold that against him if  
9       he exercises that right.

10              Is there anyone here who believes they cannot  
11       accept or abide by the fact that the Defendant has no  
12       obligation to prove his innocence, to present evidence, or  
13       to testify?

14       (No Prospective Juror raised their hand.)

15              THE COURT: Is there anyone here who understands  
16       that the Defendant has the right to choose not to testify or  
17       present evidence, but who would hold that decision against  
18       the Defendant in any way?

19       (No Prospective Juror raised their hand.)

20              THE COURT: No hands. I really banged on this.  
21       It's the essence of a criminal trial. He's presumed  
22       innocent. Guilt has to be proved beyond a reasonable doubt.  
23       He has no obligation to say or do anything, including  
24       testify.

25              Is there anyone who can't abide by that?

1 (No Prospective Juror raised their hand.)

2 THE COURT: Very well. Does anyone here have any  
3 bias or prejudice based solely on the fact that the  
4 Defendant has been charged with these offenses against the  
5 United States?

6 (No Prospective Juror raised their hand.)

7 THE COURT: So there's nobody sitting here  
8 thinking, well, he got charged; he must be guilty? If  
9 you're thinking that, put it out of your mind.

10 Does anyone have any bias or prejudice based solely  
11 on the fact that the Defendant has been charged?

12 (No Prospective Juror raised their hand.)

13 THE COURT: Is there anyone here who has already  
14 formed or expressed any opinion as to the guilt or innocent  
15 -- innocence of the Defendant?

16 (No Prospective Juror raised their hand.)

17 THE COURT: I see no hands. You've all got an open  
18 mind. You've heard my instructions. Forgive me for asking,  
19 does anyone have any disabilities, such as difficulty  
20 sitting, hearing, or seeing or staying awake?

21 (Prospective Juror raised their hand.)

22 THE COURT: I've got a hand up in the gallery.

23 PROSPECTIVE JUROR: I'm Juror 38.

24 THE COURT: 38. Let me get to my page. Yes?

25 PROSPECTIVE JUROR: I have narcolepsy.

1 THE COURT: You have what, sir?

2 PROSPECTIVE JUROR: Narcolepsy.

3 THE COURT: Okay. You fall asleep on occasion?

4 PROSPECTIVE JUROR: I take medications that helps.

5 THE COURT: If you're going to be a Juror, you  
6 can't be falling asleep during the evidence, and you have a  
7 legitimate medical condition that you're taking medication  
8 for.

9 Are you concerned that your narcolepsy will  
10 interfere with your ability to stay awake and hear the  
11 evidence when we're in session?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Thank you. Would you be offended if we  
14 see you nodding to suggest good morning to you?

15 PROSPECTIVE JUROR: No. I would not be offended.

16 THE COURT: Very well. Thank you. Somebody in the  
17 Jury box. I'm sorry, sir?

18 PROSPECTIVE JUROR: Yes, sir, Juror Number 4. I do  
19 have a hearing loss, and I have hearing aids, and I'll be  
20 fine. It does not affect me.

21 THE COURT: Do you think I should get hearing aids?

22 PROSPECTIVE JUROR: It's your choice, sir. It was  
23 recommended by my wife.

24 THE COURT: I have a wife as well. You may be  
25 seated.

1 PROSPECTIVE JUROR: Get them.

2 THE COURT: What number are you? I didn't hear  
3 you.

4 (Laughter.)

5 PROSPECTIVE JUROR: Number 4, sir.

6 THE COURT: I did hear you. Anybody else have  
7 difficulty staying awake? Particularly if something gets  
8 boring.

9 (No Prospective Juror raised their hand.)

10 THE COURT: Very well. Does anyone here have any  
11 medical issues or health concerns that have not been  
12 identified in the courtroom today that you believe could  
13 interfere with your ability to serve as a Juror? I need to  
14 ask.

15 (No Prospective Juror raised their hand.)

16 THE COURT: No responses. The Court and the  
17 attorneys estimate that this trial may take weeks, several  
18 weeks, possibly until December 1.

19 Everyone who's present here today indicated on  
20 their supplemental questionnaires or on follow-up that they  
21 are, in fact, able to serve during this time; but I want to  
22 ask everyone once, again, does anyone have any family, work,  
23 or personal circumstances because of which you believe you  
24 cannot serve as a Juror during the entire trial and give it  
25 your undivided attention?

1 (Some Prospective Jurors raised their hands.)

2 THE COURT: All right. We're going to walk through  
3 these. The gentleman in the front row?

4 PROSPECTIVE JUROR: Juror Number 7.

5 THE COURT: Yes.

6 PROSPECTIVE JUROR: I had re-constructive hand  
7 surgery, and I'm -- I just started physical therapy last  
8 week, and I don't know how, how the scheduling is going to  
9 go for me to continue my physical therapy and to see my  
10 surgeon.

11 THE COURT: We're going to be in session Monday  
12 through Friday, except the days I identified, from 9:30 to  
13 4:30.

14 PROSPECTIVE JUROR: Yeah.

15 THE COURT: Is that going to interfere? Can you  
16 reschedule your physical therapy or do you want to do it  
17 with me or --

18 PROSPECTIVE JUROR: Trying to do that now so that I  
19 could try to have the therapy sessions in the morning.

20 THE COURT: Before 9:30?

21 PROSPECTIVE JUROR: Before 9:30, yes, sir.

22 THE COURT: Such that you would get here at 9:15?

23 PROSPECTIVE JUROR: (Prospective Juror nods head  
24 affirmatively.)

25 THE COURT: Is that yes?

1 PROSPECTIVE JUROR: That's yes.

2 THE COURT: And what's the word?

3 PROSPECTIVE JUROR: So far I've got tomorrow  
4 scheduled. It's 7:30 so I should be -- that should give me  
5 enough time, but I've got to see how, how they can work the  
6 scheduling out.

7 THE COURT: Did you do physical therapy yet? Have  
8 you had a session yet?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: What do you do generally?

11 PROSPECTIVE JUROR: Well, they have me doing all  
12 different types of (Indicating) --

13 THE COURT: All right. I'll help you.

14 PROSPECTIVE JUROR: Yeah.

15 THE COURT: All right.

16 PROSPECTIVE JUROR: Yeah, picking up things, that  
17 type of thing.

18 THE COURT: All right. Thank you, sir.

19 PROSPECTIVE JUROR: Thank you.

20 THE COURT: You may be seated. There was someone  
21 in the second row of the box?

22 PROSPECTIVE JUROR: Juror 15.

23 THE COURT: Give me a moment to get to your number.  
24 Yes, sir?

25 PROSPECTIVE JUROR: Unfortunately, about a month

1       ago my wife and I were in an accident where somebody rear  
2       ended us, and my wife has two fractured vertebrae and a  
3       pinched nerve, and she has a hard time functioning by  
4       herself during the day.

5               We haven't got any -- anywhere with the doctors  
6       yet, so I don't know how long that's going to last.

7               THE COURT: Is that going to impact your ability to  
8       be here as a Juror?

9               PROSPECTIVE JUROR: If she would need me there for  
10      something, yes.

11              THE COURT: Well, tell me, tell me her condition  
12      and whether you're going to be needed there?

13              PROSPECTIVE JUROR: Well, she has a hard time  
14      walking or even helping herself around the house, and the  
15      other factor is we have a five-year old granddaughter that  
16      we babysit every day until she gets on the bus to go to  
17      school. It would be very difficult for her to do that.

18              THE COURT: So tell me why you didn't tell us that  
19      in your questionnaire?

20              PROSPECTIVE JUROR: Well, at the time that I did --  
21      I filled out the questionnaire, it didn't seem like it was  
22      going to be a problem; but as the month has progressed, she  
23      has gotten continually worse.

24              THE COURT: I'm sorry to hear that. How are you  
25      doing?



1 PROSPECTIVE JUROR: Fine. I mean, I had enough  
2 problems already before the accident. Nothing else happened  
3 to me.

4 THE COURT: Do you need the name of a good lawyer?

5 PROSPECTIVE JUROR: We're talking to someone in  
6 Lebanon.

7 THE COURT: That was a joke. Trying to keep --  
8 (Laughter.)

9 PROSPECTIVE JUROR: I know.

10 THE COURT: I'm trying to keep it light. Thank you  
11 for speaking up. I'm sorry. 15. I'm not going to excuse  
12 anybody until we get through everything. Got another hand  
13 in the box?

14 PROSPECTIVE JUROR: Juror Number 9.

15 THE COURT: Nine?

16 PROSPECTIVE JUROR: Nine.

17 THE COURT: All right. Hang on. I'm going to get  
18 to the page, and you're going to speak up, please.

19 PROSPECTIVE JUROR: So I had a filling fall out of  
20 my tooth earlier this week. It has, like, an exposed nerve.  
21 Pretty uncomfortable, and I need to try to get an  
22 appointment made. If this is going to be lasting --

23 THE COURT: Keep your voice up.

24 PROSPECTIVE JUROR: If this is going to last until  
25 December 1st, I was just wondering if I would be able to get

1       --

2               THE COURT: I'm sorry. You need to stop and keep  
3 your voice up.

4               PROSPECTIVE JUROR: So I have a filling --

5               THE COURT: I know about the filling.

6               PROSPECTIVE JUROR: I just didn't know where I lost  
7 you. I need to make an appointment, and my dentist is not  
8 open on the weekends.

9               THE COURT: Right.

10              PROSPECTIVE JUROR: So that is a scheduling  
11 conflict.

12              THE COURT: Can you do it the week of Thanksgiving,  
13 or you're not going to be able to make it to that?

14              PROSPECTIVE JUROR: I have to check and see if they  
15 are open the week of Thanksgiving as well. Like I said,  
16 this is very recently. That's why I didn't have it on my  
17 questionnaire.

18              THE COURT: I understand.

19              PROSPECTIVE JUROR: I'd like to work with you guys  
20 too. I just need to know if that's going to be a huge  
21 inconvenience for the courts.

22              THE COURT: There are a couple options. The days  
23 we are not in court, if you can get an appointment, that  
24 wouldn't interfere. We might take a break for you to have  
25 your an appointment if we had to. Would you mind if we all

1       came with you?

2       (Laughter.)

3               PROSPECTIVE JUROR:   Oh, sure.

4               THE COURT:   Very well.   Thank you, sir.   Now, I'm  
5       out of the box and into the gallery.   Way back in the back  
6       row.   Distinguished gentleman with the white hair and black  
7       mask?

8               PROSPECTIVE JUROR:   Yes, sir.

9               THE COURT:   Juror Number?

10              PROSPECTIVE JUROR:   Number 40.

11              THE COURT:   Wait until I get to the page.   Yes,  
12       sir?

13              PROSPECTIVE JUROR:   So I have Stage 4 Lung Cancer.  
14       Just recently diagnosed.   I'm on drugs that are maintaining  
15       my health right now.

16              I can't guarantee how I will feel, let's say, six  
17       weeks from now.   It's an ongoing every day thing.   So I just  
18       wanted to make the Court aware of that.

19              THE COURT:   I appreciate you speaking up, and in  
20       the first instance, I regret the diagnosis of recent time.  
21       I want you to stay positive and alive.

22              PROSPECTIVE JUROR:   Thank you.

23              THE COURT:   You're taking the medicine.   Has it  
24       interfered with your abilities?

25              PROSPECTIVE JUROR:   As of now, no, but --

1           THE COURT: You just don't know what's going to  
2 happen in the future?

3           PROSPECTIVE JUROR: I do not know what's going to  
4 happen. I'm 79 years old. I can't predict exactly how this  
5 is going to affect me, so I'm just making the Court aware.

6           THE COURT: You're 79 years old?

7           PROSPECTIVE JUROR: Yes.

8           THE COURT: You're an inspiration. I hope to make  
9 it to 79, and I hope you make it for a long time thereafter.  
10 Thank you for speaking up.

11           Are there any other hands in the gallery?  
12 (No Prospective Juror raised their hand.)

13           THE COURT: Juror Number 40? Maybe it wasn't 40.  
14 The cancer survivor. Who is the cancer survivor?

15           PROSPECTIVE JUROR: Me.

16           THE COURT: All right. I'm trying to ask you  
17 another question. Can you hear me?

18           PROSPECTIVE JUROR: Yes.

19           THE COURT: You know over 70 is the basis for an  
20 automatic exclusion. Do you wish to be exclude -- excused?

21           PROSPECTIVE JUROR: On that basis, not necessarily,  
22 no. I know that is an exclusion in some, some states, some  
23 courts. It was never asked of me when I filled out the  
24 questionnaire. I didn't know it was going to be the  
25 appropriate time to bring it up until now.

1           THE COURT: Well, now I'm bringing it up. Do you  
2 want to be excused because you're over 70?

3           PROSPECTIVE JUROR: Possibly under the  
4 circumstances it would be the best thing. I can't say it's  
5 the age as much as the medicine that that could affect.

6           THE COURT: Very well. Thank you. One last time,  
7 do you want to be excused?

8           PROSPECTIVE JUROR: No.

9           THE COURT: Thank you, sir. So we were talking  
10 about -- and I have no other hands, I don't believe, and  
11 here it is again, and I'm not fishing for excuses.

12           Does anybody have any family, work, or personal  
13 circumstances because of which you believe you cannot serve  
14 as a Juror during the entire trial and give it your  
15 undivided attention?

16           (Prospective Juror raised their hand.)

17           THE COURT: Yes, sir?

18           PROSPECTIVE JUROR: Juror Number 16.

19           THE COURT: Let me get to the paperwork, please.  
20 Okay.

21           PROSPECTIVE JUROR: Seeing as you're stressing it,  
22 I do have a child with a health condition, congenital heart  
23 disease, and I have an appointment, you know, to undergo  
24 some routine check-ups; so if that were to, you know, go  
25 south or there be some issue, then I would need to attend,

1       that would be of an issue.

2               THE COURT: I'm going to ask you to speak up. I  
3       heard that you have a child --

4               PROSPECTIVE JUROR: Sorry.

5               THE COURT: -- with a health condition -- let me  
6       tell what you I heard.

7               PROSPECTIVE JUROR: Yeah.

8               THE COURT: I think I heard you have a child with a  
9       health condition. Might be a heart condition?

10              PROSPECTIVE JUROR: Yes.

11              THE COURT: May require periodic medical  
12      appointments for the child. Is that what you're telling me?

13              PROSPECTIVE JUROR: He has one appointment  
14      scheduled within the next six weeks, so if something were to  
15      arise at that appointment, that would, you know, I'd  
16      probably like to be there; but I don't know the outcome of  
17      that.

18              THE COURT: Right. And the appointment that you do  
19      have, do you know when it is?

20              PROSPECTIVE JUROR: I couldn't tell you off the top  
21      of my head. I'm kind of bad with dates.

22              THE COURT: Welcome to the club.

23      (Laughter.)

24              THE COURT: So you just can't promise us that  
25      something might come up that required you?

1 PROSPECTIVE JUROR: Correct, sir.

2 THE COURT: Okay. Anyone else need to discuss with  
3 me responses to that question?

4 (No Prospective Juror raised their hand.)

5 THE COURT: Very well. Do any of you have  
6 significant transportation issues that might interfere with  
7 your ability to be present for court on time every day as  
8 instructed?

9 Let me say that I understand that traffic is  
10 difficult and unpredictable. I'm sorry for that  
11 inconvenience, but my question refers to significant  
12 transportation issues.

13 For example, you do not have a car; you don't have  
14 a license; if you live 75 or more miles one way from the  
15 courthouse; does anyone have that type of significant  
16 transportation issue that might interfere with your ability  
17 to be here on time every day as instructed?

18 (No Prospective Juror raised their hand.)

19 THE COURT: Nobody's going to tell me tomorrow that  
20 they don't have a car. They don't have a license. They  
21 live too far away; is that right?

22 Everyone's telling me that you can be here every  
23 day by 9:15 with court ending at about 4:30; correct?

24 (No Prospective Juror raised their hand.)

25 THE COURT: Very well. Finally, can any of you

1 think of any matter that you should call to the Court's  
2 attention that we have not already discussed which may have  
3 some impact on your qualifications as a Juror or that even  
4 to the slightest degree may prevent you from rendering a  
5 fair and impartial verdict based solely upon the evidence  
6 and my instructions as to the law?

7 (No Prospective Juror raised their hand.)

8 THE COURT: I've been at this a long time. I've  
9 picked a lot of juries, and in almost every one, day two,  
10 three or four of trial somebody comes up with, oops, forgot  
11 about a pre-planned vacation. I didn't tell you this. I  
12 didn't tell you that.

13 Every one in the room has indicated that you're  
14 able to render a fair and impartial verdict based solely  
15 upon the evidence and my instructions, you'll apply the  
16 presumption of innocence, and you can get here every day on  
17 time and participate through till the end of trial unless we  
18 chatted already; is that right?

19 (Prospective Jurors nod heads affirmatively.)

20 THE COURT: Anybody need to tell me anything now?

21 (Prospective Juror raised their hand.)

22 THE COURT: Yes, sir?

23 PROSPECTIVE JUROR: Juror Number 10, I recently got  
24 a job offer as of last Friday, and I have to do drug testing  
25 and --



1           THE COURT: Stop. I'm sorry. You got a job offer  
2 last Friday?

3           PROSPECTIVE JUROR: Yes, and I have to do drug  
4 testing and a physical, and they already have scheduled  
5 those for me.

6           THE COURT: And they also what?

7           PROSPECTIVE JUROR: A drug test and a physical, and  
8 they have those scheduled for me, but they haven't --  
9 they're telling me later today, so I'm not sure if that  
10 would be a conflict with this or not.

11          THE COURT: What are they telling you?

12          PROSPECTIVE JUROR: When those dates are that I  
13 have to take those.

14          THE COURT: And they haven't told you that yet?

15          PROSPECTIVE JUROR: No, they're telling me today at  
16 12.

17          THE COURT: So they haven't told you yet?

18          PROSPECTIVE JUROR: Yes.

19          THE COURT: They're going to tell you today when  
20 the testing is?

21          PROSPECTIVE JUROR: Yes.

22          THE COURT: Do you have any clue when it is? I'll  
23 drug test you.

24          PROSPECTIVE JUROR: Sometime next week. They  
25 usually want me to get it by next Wednesday.

1 THE COURT: Where are they located?

2 PROSPECTIVE JUROR: They're in Cincinnati. I'm not  
3 sure of the exact location.

4 THE COURT: They do the drug testing and physical,  
5 do they do it or do they send you somewhere?

6 PROSPECTIVE JUROR: They send me somewhere.

7 THE COURT: So maybe we can schedule that?

8 PROSPECTIVE JUROR: Uh-huh.

9 THE COURT: You have to do it this week?

10 PROSPECTIVE JUROR: They'd like me to.

11 THE COURT: Well, thank you for speaking up. You  
12 were so good at speaking up. I lost your Juror Number?

13 PROSPECTIVE JUROR: Ten.

14 THE COURT: Thank you. Congratulations if those  
15 are in order. Anybody else? Back to Number 10. When's  
16 this job going to start?

17 PROSPECTIVE JUROR: It's supposed to start Monday.

18 THE COURT: Well, then you can't be a Juror; is  
19 that right?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Is this a really good job?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: I didn't hear you. I was teasing but  
24 go ahead and answer. Do you want to take the job?

25 PROSPECTIVE JUROR: Yes.

1           THE COURT: Thank you for speaking up. Anybody  
2 else? Sir, I'm really pleased you're here and spoke up, but  
3 it wasn't until the last question I figured out that he's  
4 going to be working at a new job. You need to tell me now  
5 if you can't do this. Is there -- I've asked you the  
6 questions.

7           Is there anyone else who needs to speak with me  
8 about ability to serve throughout the trial and every day?  
9 (No Prospective Juror raised their hand.)

10          THE COURT: Thank you. Okay. You survived my  
11 questions. The lawyers now have a chance to ask questions.  
12 The lawyers answer to me. You're in good shape. Brace  
13 yourself.

14          On behalf of the Government, you get to go first,  
15 who will be inquiring?

16          MR. MANGAN: Me, me, Your Honor.

17          THE COURT: Very well. Would you tell me your name  
18 again?

19          MR. MANGAN: Good morning, everyone. My name is  
20 Tim Mangan. I'm with the U.S. Attorney's Office. I want to  
21 echo the Court's sentiments earlier about thanking you for  
22 coming.

23          You know, having Jury trials with Juries from our  
24 peers is such a bedrock principle for our justice system.  
25 It just can't operate without you. Especially in

1 challenging times, we really appreciate you coming in.

2 I'm going to ask some questions. At times, some  
3 questions for individuals. We don't mean to pry. We don't  
4 want to get into personal lives. It's just part of the  
5 process for us to try to make sure we have a fair and  
6 impartial Jury for both the Defense and the Government going  
7 forward.

8 Everyone puts in a lot of time. There's a lot  
9 involved in these cases, and so it's important for us to get  
10 through this process as efficiently as we can. I'll try to  
11 be brief as best I can.

12 First of all, this case is going to involve --  
13 there may be an instance or two where the Government has  
14 used someone as a cooperating witness.

15 If you've ever heard of that phrase before, where  
16 they approach someone and then that person, an individual  
17 cooperates with the investigation -- in this case  
18 cooperating with the F.B.I.

19 Does anybody have any concerns or problems with law  
20 enforcement using cooperating witnesses in their  
21 investigations?

22 (No Prospective Juror raised their hand.)

23 MR. MANGAN: And feel free to just raise your hand  
24 if you do, and we can talk about it.

25 It's a technique that's used. You've maybe seen

1       them on TV, but it's called using a cooperator or  
2       cooperating witness.

3               Does anybody at all have a concern with that or a  
4       problem with that kind of technique?

5       (No Prospective Juror raised their hand.)

6               MR. MANGAN: All right. Let me ask you as well, if  
7       you hear testimony from a witness who's been convicted of a  
8       crime, you may be instructed to examine their testimony with  
9       greater caution.

10              Does anybody feel that they would have any  
11      particular concerns about trying to evaluate the testimony  
12      of a witness who may have been convicted of a crime?

13      (No Prospective Juror raised their hand.)

14              MR. MANGAN: Feel free to raise your hand if you  
15      have any -- anything? No concerns?

16      (No Prospective Juror raised their hand.)

17              MR. MANGAN: All right. Thank you. Let me  
18      follow-up specifically, I know -- Number 21. Just a  
19      follow-up. Thank you for indicating kind of where you work.  
20      I understand you work with another government agency;  
21      correct?

22              PROSPECTIVE JUROR: I do.

23              MR. MANGAN: All right. And as part of that, you  
24      have, it sounds like, one case with one of the attorneys at  
25      the U.S. Attorney's Office?

1 PROSPECTIVE JUROR: I do.

2 MR. MANGAN: All right. Is it simply one case  
3 you're working on?

4 PROSPECTIVE JUROR: Currently, yes.

5 MR. MANGAN: Okay.

6 PROSPECTIVE JUROR: With the possibility of others.

7 MR. MANGAN: All right. And is that a civil case?

8 PROSPECTIVE JUROR: It is.

9 MR. MANGAN: Okay. And that's strictly in your  
10 professional capacity? You don't have any personal  
11 relationship with the Assistant U.S. Attorney; correct?

12 PROSPECTIVE JUROR: Correct.

13 MR. MANGAN: And, and do you have any association  
14 or relationship with any of the attorneys that work on the  
15 criminal side of that office?

16 PROSPECTIVE JUROR: I do not.

17 MR. MANGAN: All right. And in your work capacity,  
18 have you had any interactions with the Federal prosecutors  
19 locally?

20 PROSPECTIVE JUROR: I'm sorry. Are you asking  
21 about the case that I brought up?

22 MR. MANGAN: No. You mentioned that was a civil  
23 case.

24 PROSPECTIVE JUROR: Oh, okay, yes. I had no  
25 interactions on the criminal side.

1 MR. MANGAN: Okay. And I realize you work for a  
2 different department of the Government. Given all that, you  
3 still believe you could be a fair and impartial Juror?

4 PROSPECTIVE JUROR: I do.

5 MR. MANGAN: All right. Thank you, sir. I  
6 appreciate it. I want to ask now about -- in this case it's  
7 going to touch on some issues relating to certain aviation  
8 companies, but in particular GE Aviation.

9 So I want to start and kind of ask if anybody here  
10 is a current employee of GE Aviation?

11 (Some Prospective Jurors raised their hands.)

12 MR. MANGAN: So I see one in the box. Sir, could  
13 you stand up? And tell us your Juror Number?

14 PROSPECTIVE JUROR: Juror Number 9.

15 MR. MANGAN: Number 9?

16 PROSPECTIVE JUROR: (Prospective Juror nods head  
17 affirmatively.)

18 MR. MANGAN: And are you a current GE employee?

19 PROSPECTIVE JUROR: Yes.

20 MR. MANGAN: How long have you worked there?

21 PROSPECTIVE JUROR: Since February of '19.

22 MR. MANGAN: Okay. And do you work for -- I know  
23 GE has -- it's a large company with different divisions. Do  
24 you work in the aviation division?

25 PROSPECTIVE JUROR: Yes.

1           MR. MANGAN: All right. And can you tell generally  
2 sort of what field you work in?

3           PROSPECTIVE JUROR: Electrical maintenance.

4           MR. MANGAN: Electrical maintenance?

5           PROSPECTIVE JUROR: Yes.

6           MR. MANGAN: All right. Are you involved at all in  
7 the design or engineering of the jet engines?

8           PROSPECTIVE JUROR: No.

9           MR. MANGAN: Are you involved in the manufacturing  
10 of the jet engines?

11          PROSPECTIVE JUROR: No, not directly.

12          MR. MANGAN: All right. You say it was in  
13 electrical maintenance?

14          PROSPECTIVE JUROR: Yes.

15          MR. MANGAN: Okay. And does that relate to the  
16 facilities?

17          PROSPECTIVE JUROR: Partly. I'm in a division that  
18 works on the component testing, so sometimes engineers will  
19 come to us, ask them to construct cables --

20          MR. MANGAN: Okay.

21          PROSPECTIVE JUROR: -- you know, cable ends and  
22 then they take those pieces back and use them for testing.

23          MR. MANGAN: Okay. Earlier the judge asked about  
24 any knowledge of this particular case. Do you have any  
25 knowledge of this case?



1 PROSPECTIVE JUROR: No, nothing outside of the  
2 questionnaire.

3 MR. MANGAN: All right. When they listed the  
4 names of the witnesses, did you recognize any of those  
5 witnesses?

6 PROSPECTIVE JUROR: No.

7 MR. MANGAN: Okay. And you have not heard this  
8 discussed with any of your co-workers at GE Aviation?

9 PROSPECTIVE JUROR: No.

10 MR. MANGAN: All right. If there's a witness from  
11 GE Aviation, would you give that witness's testimony any  
12 more or less weight just because you're employed at the same  
13 company?

14 PROSPECTIVE JUROR: No.

15 MR. MANGAN: All right. Given all that, do you  
16 still feel you could be a fair and impartial Juror?

17 PROSPECTIVE JUROR: Yes.

18 MR. MANGAN: All right. Thank you. I appreciate  
19 it. I believe there was another hand?

20 (Some Prospective Jurors raised their hands.)

21 MR. MANGAN: Yes, sir. Could you start with your  
22 number, please?

23 PROSPECTIVE JUROR: Juror 36.

24 MR. MANGAN: Juror 36?

25 PROSPECTIVE JUROR: Yes, sir.

1 MR. MANGAN: All right. Thank you. One moment.

2 COURT REPORTER JULIE HOHENSTEIN: Sir, could you  
3 come to the microphone, please?

4 PROSPECTIVE JUROR: Yes.

5 COURT REPORTER JULIE HOHENSTEIN: Thank you.

6 PROSPECTIVE JUROR: Is this good?

7 MR. MANGAN: Yes. Thank you. And, sir, do you  
8 work at GE Aviation?

9 PROSPECTIVE JUROR: I do currently work at GE  
10 Aviation.

11 MR. MANGAN: Okay. And how long have you worked  
12 there?

13 PROSPECTIVE JUROR: Since 2001.

14 MR. MANGAN: All right. And generally what area of  
15 the business do you work in?

16 PROSPECTIVE JUROR: Currently I work in our  
17 Aviation Services Division.

18 MR. MANGAN: All right. What is that?

19 PROSPECTIVE JUROR: We maintain and provide service  
20 agreements for aircraft engines --

21 MR. MANGAN: Okay.

22 PROSPECTIVE JUROR: -- that we manufacture.

23 MR. MANGAN: All right. So this is servicing once  
24 they've been sold?

25 PROSPECTIVE JUROR: Indeed.

1 MR. MANGAN: Okay. Are you at all involved in the  
2 design phase?

3 PROSPECTIVE JUROR: Not my current capacity. In  
4 prior roles, before 2010, I was involved with our research  
5 and development and test operations.

6 MR. MANGAN: All right. Let me ask you: Did you  
7 have any experience working at all with something called  
8 composite fan blades?

9 PROSPECTIVE JUROR: I have not worked directly with  
10 our composite fan blades or any associated processes for  
11 manufacturing/assembly of those.

12 MR. MANGAN: Previously the Court asked if anybody  
13 had any knowledge of this case. Were you aware of this case  
14 at all?

15 PROSPECTIVE JUROR: I was not.

16 MR. MANGAN: All right. He listed a number of  
17 witnesses that may be testifying in the case. Did you  
18 recognize any of those names from work?

19 PROSPECTIVE JUROR: None of those names were  
20 familiar, no.

21 MR. MANGAN: Okay. If there is a witness from GE  
22 that would testify, would you be able to evaluate that  
23 witness's credibility without giving them any more or less  
24 weight just based on their employment?

25 PROSPECTIVE JUROR: Not on the basis of just the

1 fact that they're employed with GE Aviation.

2 MR. MANGAN: Okay.

3 PROSPECTIVE JUROR: There's a possibly I could have  
4 some prior relationship not knowing that witness, but not on  
5 the basis of them being just an aviation -- GE Aviation  
6 employee alone.

7 MR. MANGAN: Okay. Given that we are going to have  
8 at least a couple GE Aviation employees testify, do you  
9 believe you can be a fair and impartial Juror in this case?

10 PROSPECTIVE JUROR: I do believe so.

11 MR. MANGAN: Okay. Thank you, sir.

12 THE COURT: Sir, while you're there, given your  
13 expertise, can you tell me if that microphone is working?

14 PROSPECTIVE JUROR: From here it sounds like it is,  
15 but I --

16 THE COURT: Could you tap on it for me?

17 PROSPECTIVE JUROR: (Witness complies.)

18 THE COURT: Thank you, sir. It's working. Have a  
19 seat.

20 MR. MANGAN: Were there any other GE Aviation  
21 employees? Make sure I didn't miss any hands.

22 (Prospective Juror raised their hand.)

23 THE COURT: Number, please?

24 PROSPECTIVE JUROR: 13. Sorry. I worked at  
25 Evendale plant from '86 to '91.

1 MR. MANGAN: All right. And is -- and I'm sorry.  
2 You're Juror Number 13?

3 PROSPECTIVE JUROR: 13.

4 MR. MANGAN: And, sir, the last time you worked  
5 there was 1991?

6 PROSPECTIVE JUROR: Yes.

7 MR. MANGAN: Okay. Have you worked there at all  
8 since?

9 PROSPECTIVE JUROR: No.

10 MR. MANGAN: Okay. Do you have any other  
11 association at all with the company?

12 PROSPECTIVE JUROR: No.

13 MR. MANGAN: Were you aware of the case, what the  
14 Court described?

15 PROSPECTIVE JUROR: No.

16 MR. MANGAN: Were you aware of any of the GE  
17 witnesses that were on the list?

18 PROSPECTIVE JUROR: No.

19 (Large static sound in courtroom.)

20 THE COURT: What did you do?

21 MR. MANGAN: I thought it was you. I don't know.  
22 Sir, given your past experience with GE Aviation, which was  
23 30 years ago, I guess?

24 PROSPECTIVE JUROR: Long time ago.

25 MR. MANGAN: Okay. Do you believe you can still be

1 a fair and impartial witness?

2 PROSPECTIVE JUROR: Yes.

3 MR. MANGAN: Or excuse me. A fair and impartial  
4 Juror in this case?

5 PROSPECTIVE JUROR: Yes.

6 MR. MANGAN: All right. Thank you, sir.

7 (Prospective Juror raised their hand.)

8 MR. MANGAN: Yes, sir?

9 PROSPECTIVE JUROR: Juror Number 23. I used to  
10 work for GE. I used to be a contractor for them.

11 MR. MANGAN: Okay. So Number 23; correct?

12 PROSPECTIVE JUROR: Yes.

13 MR. MANGAN: When you -- when you did work there,  
14 were you an employee or a contractor?

15 PROSPECTIVE JUROR: I was an intern for college,  
16 and I was working for GE. Then I was a contractor for SA  
17 Research, which does contract work on a design phase for  
18 them.

19 MR. MANGAN: Okay. What -- when was it that you  
20 were an intern?

21 PROSPECTIVE JUROR: I want to say maybe 2014 or  
22 '13.

23 MR. MANGAN: Okay. And then what was the time  
24 period when you worked for a contractor?

25 PROSPECTIVE JUROR: I'd say 2018 maybe 2017 as

1 well.

2 MR. MANGAN: And during the time you were working  
3 with one of the GE contractors, were you ever on-site or did  
4 you work full-time on-site?

5 PROSPECTIVE JUROR: I worked at a GE facility.

6 MR. MANGAN: All right. Was it --

7 PROSPECTIVE JUROR: On military contracts.

8 MR. MANGAN: Okay. Which facility?

9 PROSPECTIVE JUROR: Building 200.

10 MR. MANGAN: All right. Is that in Evendale?

11 PROSPECTIVE JUROR: Yes.

12 MR. MANGAN: All right. Do you no longer work for  
13 that GE contractor?

14 PROSPECTIVE JUROR: I do not.

15 MR. MANGAN: All right. And while you were working  
16 for the contractor, you were -- you were their employee;  
17 correct?

18 PROSPECTIVE JUROR: Yes.

19 MR. MANGAN: And they simply had a business  
20 relationship with GE?

21 PROSPECTIVE JUROR: Yes, correct.

22 MR. MANGAN: All right. Is there anything about  
23 your work experience with the contractor or as an intern  
24 that you believe would impact your ability to serve as a  
25 Juror in this case?

1 PROSPECTIVE JUROR: No.

2 MR. MANGAN: All right. Did you know any of the  
3 witnesses that were read off earlier?

4 PROSPECTIVE JUROR: I do not, no.

5 MR. MANGAN: All right. And did you know about  
6 this case at all?

7 PROSPECTIVE JUROR: No.

8 MR. MANGAN: All right. Based on -- based on all  
9 that, would you, would you still be able to serve as a fair  
10 and impartial Juror?

11 PROSPECTIVE JUROR: Yes, sir.

12 MR. MANGAN: And if there was an GE employee who  
13 testified, would you give them any more or less weight as,  
14 as a witness --

15 PROSPECTIVE JUROR: No.

16 MR. MANGAN: -- just because they work for GE?

17 PROSPECTIVE JUROR: No.

18 MR. MANGAN: Okay. Thank you. Appreciate it. Is  
19 there anyone else who has worked at GE or in a similar  
20 fashion or, you know, been a contractor on-site? Okay.  
21 (Prospective Juror raised their hand.)

22 THE COURT: You've got a hand in the box.

23 MR. MANGAN: Oh, excuse me. I'm sorry.

24 PROSPECTIVE JUROR: I waffled there for a minute.  
25 Juror Number 16.



1 MR. MANGAN: Yes, sir.

2 PROSPECTIVE JUROR: I just wanted to point out that  
3 I've worked on marketing campaigns for GE engines and  
4 aviation for their military contracts for Apache and Black  
5 Hawk helicopters.

6 MR. MANGAN: Can you -- what kind of campaign was  
7 that?

8 PROSPECTIVE JUROR: It was a T-901 marketing --

9 THE COURT: I need you to speak up. Did you say  
10 marketing campaign?

11 PROSPECTIVE JUROR: Yes, the T-901.

12 MR. MANGAN: Okay. So do you work for a different  
13 company --

14 PROSPECTIVE JUROR: Yes.

15 MR. MANGAN: -- that does marketing for GE?

16 PROSPECTIVE JUROR: Yes.

17 MR. MANGAN: I see. And when did you work on that  
18 marketing campaign?

19 PROSPECTIVE JUROR: Within the last two years.

20 MR. MANGAN: All right. And are you an employee at  
21 GE?

22 PROSPECTIVE JUROR: No.

23 MR. MANGAN: All right. You work for an outside  
24 firm that GE hired?

25 PROSPECTIVE JUROR: Correct.

1 MR. MANGAN: Okay. Is that work ongoing?

2 PROSPECTIVE JUROR: No.

3 MR. MANGAN: So that part of the campaign is over?

4 PROSPECTIVE JUROR: Yep.

5 MR. MANGAN: Okay. Is there any part of your work  
6 now that touches on GE?

7 PROSPECTIVE JUROR: No.

8 MR. MANGAN: Did you recognize any of the witnesses  
9 that we described earlier?

10 PROSPECTIVE JUROR: No.

11 MR. MANGAN: Do you -- did you have any prior  
12 knowledge of this case before today?

13 PROSPECTIVE JUROR: No.

14 MR. MANGAN: All right. Is there anything about  
15 having worked on that campaign with GE Aviation that you  
16 feel would impact your ability to be a fair and impartial  
17 Juror?

18 PROSPECTIVE JUROR: No.

19 MR. MANGAN: If we had a GE Aviation witness, would  
20 you be able to listen to their testimony without giving them  
21 any more or less weight just because they worked for that  
22 company?

23 PROSPECTIVE JUROR: Yes.

24 MR. MANGAN: All right. You believe you would be  
25 able -- I probably asked that.

1 PROSPECTIVE JUROR: Yeah, I picked it up. You --  
2 yes.

3 MR. MANGAN: All right. You wouldn't give them any  
4 more or less weight?

5 PROSPECTIVE JUROR: No.

6 MR. MANGAN: Okay. Is there anything else about  
7 the work that you perform that you think we should know?

8 PROSPECTIVE JUROR: No, I've been to all the  
9 facilities and toured them.

10 THE COURT: I need you to speak up.

11 PROSPECTIVE JUROR: I've been to the different  
12 facilities and toured them.

13 MR. MANGAN: Okay.

14 PROSPECTIVE JUROR: And seen those programs.

15 MR. MANGAN: All right. But that work was -- has  
16 been concluded?

17 PROSPECTIVE JUROR: Yep.

18 MR. MANGAN: Okay. All right. Thank you, sir. I  
19 know there's sometimes individuals who have relatives who  
20 have worked at GE Aviation.

21 Are there any individuals here who have relatives  
22 -- and let's keep it to, sort of the immediate family --  
23 that work for GE Aviation?

24 (Some Prospective Jurors raised their hands.)

25 MR. MANGAN: Yes, sir? We'll start with you and

1 work our way --

2 PROSPECTIVE JUROR: Juror Number 23. My father  
3 works for GE.

4 MR. MANGAN: Okay. Does he still work for GE?

5 PROSPECTIVE JUROR: He does.

6 MR. MANGAN: And does he work at GE Aviation?

7 PROSPECTIVE JUROR: Yes, he does.

8 MR. MANGAN: All right. How long has he worked  
9 there?

10 PROSPECTIVE JUROR: I'd say six years.

11 MR. MANGAN: All right. He worked somewhere else  
12 before then?

13 PROSPECTIVE JUROR: Yes.

14 MR. MANGAN: All right. And generally what field  
15 does he work in there?

16 PROSPECTIVE JUROR: He's a machinist in the  
17 aviation field. He's a machinist.

18 MR. MANGAN: A machinist. Thank you.

19 PROSPECTIVE JUROR: Yeah.

20 MR. MANGAN: Is he at all involved in the actual  
21 engine design?

22 PROSPECTIVE JUROR: Not the design phase, no.

23 MR. MANGAN: Okay. And going back to the other  
24 questions that I asked previously, does the fact that your  
25 father works at GE Aviation, do you believe that would

1 impact your ability to be a fair and impartial Juror in this  
2 case?

3 PROSPECTIVE JUROR: No.

4 MR. MANGAN: Okay. All right. Thank you, sir.

5 THE COURT: I'm sorry. What was your number?

6 PROSPECTIVE JUROR: Juror Number 23.

7 THE COURT: Thank you, sir.

8 MR. MANGAN: I believe there was another hand.

9 (Prospective Juror raised their hand.)

10 MR. MANGAN: Yes, sir?

11 PROSPECTIVE JUROR: Juror 25.

12 MR. MANGAN: Okay.

13 PROSPECTIVE JUROR: Both my parents work at GE. My  
14 father worked in submarine logistics for them. My mom  
15 worked at GE Aviation in the design.

16 MR. MANGAN: All right. Do they -- do either of  
17 them still work there?

18 PROSPECTIVE JUROR: No.

19 MR. MANGAN: All right. When's the last time they  
20 worked at GE Aviation?

21 PROSPECTIVE JUROR: I believe my mom retired in  
22 2015. My dad was considerably earlier than that.

23 MR. MANGAN: Okay. I take it you did not work at  
24 GE Aviation?

25 PROSPECTIVE JUROR: No.

1 MR. MANGAN: All right. And you don't have any  
2 inside knowledge about the company's workings or how they  
3 design engines?

4 PROSPECTIVE JUROR: I have little bits and pieces  
5 but --

6 MR. MANGAN: Okay.

7 PROSPECTIVE JUROR: -- nothing major.

8 THE COURT: I'm having trouble hearing. You need  
9 to come to the microphone, sir.

10 PROSPECTIVE JUROR: I have -- no, I do not have  
11 any information about how it works or anything.

12 MR. MANGAN: Okay. Did you recognize any of the  
13 witnesses on the witness list?

14 PROSPECTIVE JUROR: No.

15 MR. MANGAN: And did you have any knowledge of this  
16 case prior to coming here?

17 PROSPECTIVE JUROR: No.

18 MR. MANGAN: Okay. If there's a GE employee  
19 witness, would you give that witness any more or less  
20 weight --

21 PROSPECTIVE JUROR: I don't -- no. Just as a  
22 witness that would testify, I believe.

23 MR. MANGAN: Okay.

24 PROSPECTIVE JUROR: But being an employee of GE,  
25 no.

1 COURT REPORTER JULIE HOHENSTEIN: I'm sorry. I  
2 need you to speak up and repeat that.

3 THE COURT: We're not hearing you.

4 PROSPECTIVE JUROR: No. I don't believe I'd give  
5 them any more weight or less weight.

6 MR. MANGAN: All right. Thank you. And do you  
7 still believe you could serve as a fair and impartial Juror  
8 on this case?

9 PROSPECTIVE JUROR: Yes, I believe I can.

10 MR. MANGAN: All right. Thank you.

11 (Prospective Juror raised their hand.)

12 MR. MANGAN: Yes, sir, would you come up to the  
13 microphone? And state your Juror Number?

14 PROSPECTIVE JUROR: Number 27.

15 MR. MANGAN: Go ahead, sir.

16 PROSPECTIVE JUROR: My father worked at GE Aviation  
17 for 35 years, but he retired, I think, nine years ago, eight  
18 years ago.

19 MR. MANGAN: Okay. In what field did he work?

20 PROSPECTIVE JUROR: Customer support.

21 MR. MANGAN: Okay. And is there anything about him  
22 working at GE Aviation that you believe would impact your  
23 ability to be a fair and impartial Juror?

24 PROSPECTIVE JUROR: No, sir.

25 MR. MANGAN: All right. Did you recognize any of

1 the witness names?

2 PROSPECTIVE JUROR: No, sir.

3 MR. MANGAN: And did you know anything about this  
4 case beforehand?

5 PROSPECTIVE JUROR: No, I didn't.

6 MR. MANGAN: All right. Thank you. I appreciate  
7 it. Anyone else?

8 (Prospective Juror raised their hand.)

9 MR. MANGAN: Yes, sir? Could you state your number  
10 at the microphone?

11 PROSPECTIVE JUROR: Yes, Juror 17, and, first of  
12 all --

13 THE COURT: I'm sorry, sir. Can you step up to the  
14 microphone and speak up?

15 PROSPECTIVE JUROR: You're probably just asking for  
16 current employees, but my father had work for GE Aviation  
17 way back in the '70s. He hasn't worked there since  
18 mid-'70s.

19 MR. MANGAN: Okay. So your father last worked for  
20 GE in the 70s's you said?

21 PROSPECTIVE JUROR: Yes.

22 MR. MANGAN: Is there anything about that that you  
23 believe would have an impact on your ability to be a fair  
24 and impartial Juror in this case?

25 PROSPECTIVE JUROR: It would not.



1 MR. MANGAN: All right. Thank you. I appreciate  
2 it.

3 THE COURT: What was the number?

4 MR. MANGAN: 17.

5 PROSPECTIVE JUROR: 17, yes, Your Honor.

6 THE COURT: Thank you. Number 16?

7 PROSPECTIVE JUROR: Yeah, Juror Number 16. My  
8 mother and father both worked at GE. My father retired.  
9 Been there his whole career as an accountant, and mother was  
10 in administration. That had to have been at least 30 years  
11 ago.

12 THE COURT: Are you messing with me? Would you  
13 please speak up, please?

14 PROSPECTIVE JUROR: Sure.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR: What should I repeat?  
17 Everything?

18 THE COURT: Yeah.

19 PROSPECTIVE JUROR: My mother and father both  
20 worked at GE. My father worked there for 35 years until his  
21 retirement in accounting, and my mother was in  
22 administration, but that had to have been 30 years ago.

23 THE COURT: Thank you.

24 MR. MANGAN: All right. Thank you, sir. And one  
25 last question: Do you believe that your parents having

1 worked there in the past would have any impact on your  
2 ability to be a fair and impartial Juror?

3 PROSPECTIVE JUROR: No.

4 MR. MANGAN: Thank you. Any other hands related to  
5 GE?

6 (No Prospective Juror raised their hand.)

7 MR. MANGAN: Okay. Thank you. Now, I do want to  
8 turn to, you know, the Court already touched on some of the  
9 issues in terms of nationality and things of that nature.

10 Does everyone agree with the principle, you know,  
11 that we should only -- if we instruct you to rely only on  
12 the evidence in this case, that that's what you should rely  
13 on and not on any personal feelings or opinions or biases  
14 toward a particular race or nationality? Can everyone agree  
15 with that principle? Is there anyone that disagrees with  
16 that?

17 (No Prospective Juror raised their hand.)

18 MR. MANGAN: Okay. Let's talk more broadly about  
19 China. I know that was part of the questionnaire that  
20 everyone filled out, and some folks had checked off  
21 different issues that you may have concerns with regarding  
22 what, what the country may do pertaining to various issues  
23 or policies or form of government or whatever it may be.

24 So let me ask just a couple specific questions.  
25 Are there any folks who have opinions -- positive or

1 negative -- about the country of China based on human rights  
2 issues? Feel free to raise your hand if you do.

3 (Prospective Jurors raised their hands.)

4 MR. MANGAN: Okay. Thank you. For those who  
5 rose -- or raised their hands, let me say, this case does  
6 not pertain to human rights in China.

7 For those who put their hands up, can you set those  
8 feelings aside and judge this case solely on the evidence  
9 that is presented in the Court?

10 (Prospective Jurors nodded heads affirmatively.)

11 MR. MANGAN: Is there anyone who cannot or has  
12 concerns that their feelings on the human rights issues  
13 would make it difficult for them to be an impartial Juror in  
14 this case?

15 (No Prospective Juror raised their hand.)

16 MR. MANGAN: If you have any of those feelings,  
17 it's okay. You know, we just kind of what to talk that  
18 through now. Anyone?

19 (No Prospective Juror raised their hand.)

20 MR. MANGAN: I don't see any hands up. Okay. Same  
21 thing, there was, there was a checkmark related to the COVID  
22 virus, the Coronavirus that a few people checked.

23 So I want to ask about that a little bit. Are  
24 there any folks who have positive or negative opinions about  
25 the country of China related to the Coronavirus?

1 (Prospective Jurors raised their hands.)

2 MR. MANGAN: Feel free to raise your hand if that's  
3 how -- if you have opinions on that -- positive or negative  
4 feelings toward that country because of the virus?

5 (Some Prospective Jurors raised their hands.)

6 MR. MANGAN: All right. So I'm going to ask a  
7 similar question. For those that raised their hands related  
8 to that issue, okay, for those who raised their hands  
9 related to COVID, can you set those feelings aside and judge  
10 this case solely on the evidence presented and the  
11 Instructions of Law from the Court?

12 (Prospective Jurors nodded heads affirmatively.)

13 MR. MANGAN: If there is anyone who cannot or who  
14 has concerns about that, could you raise your hand now?

15 (No Prospective Juror raised their hand.)

16 MR. MANGAN: It's okay. We just -- like I said, if  
17 you feel you can't set those feelings aside, we just want to  
18 make sure that we talk about it before we get through this  
19 selection process.

20 Is there anyone who feels they cannot set those  
21 feelings aside and continue to be a fair and impartial  
22 Juror?

23 (No Prospective Juror raised their hand.)

24 MR. MANGAN: All right. I don't see any hands.  
25 All right. Thank you.

1           As the Court mentioned, the case involves  
2       discussions of attempted theft or a conspiracy to steal  
3       trade secrets, and specifically we'll be talking about  
4       aviation and plane technology as you may have started to  
5       kind of put together.

6           So I want to ask in general about intellectual  
7       property protection or trade secrets. Does anybody work for  
8       a company that makes them sign an agreement to protect the  
9       company's confidential information?

10      (Prospective Jurors raised their hands.)

11           MR. MANGAN: I see a few hands in the back. All  
12      right. Does anyone have, have to sign agreements with their  
13      company about trade secret protection?

14      (Prospective Juror raised their hand.)

15           MR. MANGAN: Okay. I see a few hands in the back  
16      as well. Some folks have opinions as to whether or not, you  
17      know, intellectual property theft should or should not be a  
18      crime.

19           Does anybody have any strong opinions that the  
20      theft of trade secrets should not be a crime? Perhaps that  
21      it should just be handled civilly?

22      (No Prospective Juror raised their hand.)

23           MR. MANGAN: I don't see any hands. Okay. If you  
24      do, feel free to raise your hand. Does anybody have any  
25      thoughts that trade secret theft should not be a crime?

1 (No Prospective Juror raised their hand.)

2 MR. MANGAN: Okay. Does anyone have the opinion  
3 that technology or intellectual property should be available  
4 openly to everyone without any kind of limitations?

5 (No Prospective Juror raised their hand.)

6 MR. MANGAN: And don't worry. This doesn't involve  
7 downloading music.

8 (Laughter.)

9 MR. MANGAN: So we're not going to get into that.  
10 That could be a hot-button issue for some people. But  
11 generally does anybody have that opinion?

12 (No Prospective Juror raised their hand.)

13 MR. MANGAN: I don't see any hands there. Okay.  
14 Thank you. Turning back to the, you know, the heart of this  
15 as the Court mentioned.

16 As the Court mentioned, the Government of China is  
17 not on trial here; but we will be talking about allegations  
18 of crimes regarding, you know, trade secrets that we're,  
19 we're alleging were taken for the benefit, for the benefit  
20 of the Republic of China.

21 Is there anything about the nature of those charges  
22 that would make it difficult for you to serve as a Juror on  
23 this case?

24 (No Prospective Juror raised their hand.)

25 MR. MANGAN: Is there anyone who has any concerns

1 about that?

2 (No Prospective Juror raised their hand.)

3 MR. MANGAN: Would you be able to set aside your  
4 feelings about other issues perhaps on China and just decide  
5 this case for this individual based on the evidence  
6 presented here?

7 (Prospective Jurors nod heads affirmatively.)

8 MR. MANGAN: All right. Now, there may be some who  
9 have strong opinions about trade secret theft or trade  
10 secret theft particularly related to China.

11 Does everyone understand that the crimes charged  
12 here relate to a single individual, and you can only find  
13 that individual guilty if the Government proves every  
14 element of the crime beyond a reasonable doubt?

15 Does everybody understand that and agree with that?

16 (Prospective Jurors nod heads affirmatively.)

17 MR. MANGAN: And so if we, the Government, do not  
18 prove those crimes, every element beyond a reasonable doubt,  
19 do you understand you would need to render a verdict of not  
20 guilty regardless of how you may feel about generally trade  
21 secret theft or the country of China?

22 (Prospective Jurors nod heads affirmatively.)

23 MR. MANGAN: I see a lot of heads nodding. Does  
24 everybody understand that distinction? Are there any  
25 questions or anybody have any concerns about that?

1 (No Prospective Juror raised their hand.)

2 MR. MANGAN: Does anyone want to speak to whether  
3 or not they feel that would be difficult for them to be a  
4 fair and impartial Juror in that kind of situation?

5 (No Prospective Juror raised their hand.)

6 MR. MANGAN: All right. One last thing I want to  
7 touch upon is we mentioned the crimes involved. The crime  
8 of attempt. So an allegation that someone has attempted a  
9 crime, which obviously by the definition of the word  
10 attempt, it may mean that they did not fulfill the crime.

11 Does anyone have any concerns that an attempt by  
12 itself should not be a crime?

13 (No Prospective Juror raised their hand.)

14 MR. MANGAN: All right. And we're also going to  
15 talk about conspiracy, and the Court will instruct you on  
16 the law as to what a conspiracy is, but essentially we're  
17 talking about an agreement to commit a crime. An  
18 agreement between people that may be informal. It may be  
19 unspoken.

20 Does anybody have any opinions that that kind of  
21 agreement should not be a crime by itself?

22 (No Prospective Juror raised their hand.)

23 MR. MANGAN: Does anybody have any feelings that  
24 conspiracy strikes them the wrong way as far as a crime is  
25 concerned?



1 (No Prospective Juror raised their hand.)

2 MR. MANGAN: Go ahead and raise your hand if you  
3 have any concerns about that?

4 (No Prospective Juror raised their hand.)

5 MR. MANGAN: Either attempt or conspiracy, raise  
6 your hand if you have any concerns about that being  
7 prosecuted as a crime?

8 (No Prospective Juror raised their hand.)

9 MR. MANGAN: Okay. If I can have one moment, Your  
10 Honor?

11 THE COURT: Yes.

12 (Mr. Mangan, confers with co-counsel.)

13 THE COURT: Ms. Frankian, can you approach?

14 MR. MANGAN: That's all we have, Your Honor. Thank  
15 you.

16 THE COURT: Thank you. If you'll give me just a  
17 moment.

18 (The Court confers with Ms. Frankian.)

19 THE COURT: Almost 10 to 12. How long does the  
20 Defense estimate that voir dire from the Defense will take,  
21 which is the next step?

22 MR. KOHNEN: Your Honor, I believe that I could  
23 certainly get it done within an hour. Perhaps within  
24 45 minutes depending on the answers, and thank you for  
25 calling on me, because I got to stand. I was wondering if

1 maybe the Jurors might like to stand for a minute, and then  
2 I could proceed.

3 THE COURT: I'm trying to decide whether to take a  
4 break so they can stand and move around or whether they want  
5 to plow ahead.

6 Jurors, you've been at the courthouse for a while.  
7 You've been in this courtroom sitting down. We can go  
8 through some stretching, maybe work in a little physical  
9 therapy on our hands while we're in the break, or we can  
10 take a 15-minute break and get you up and around, you can  
11 move around.

12 How many people would like to take a 15-minute  
13 break of the Jurors? Hands way up.

14 (Prospective Jurors raised their hands.)

15 THE COURT: How many would love to plow ahead  
16 without a break?

17 (Prospective Juror raised their hand.)

18 THE COURT: The breakers win the vote, and we are  
19 going to take a break momentarily. I need to talk to you  
20 about breaks.

21 On the break, do not discuss what went on in the  
22 courtroom with any fellow Juror or anyone else. Do not do  
23 any independent research. I'll tell you that every time.  
24 Don't discuss the case.

25 If anybody approaches you and tries to discuss it,

1 let me know. No independent research about any of this.

2 Can't read or listen to or watch any news reports, if there  
3 are any.

4 You can't check or use Google, Facebook, Twitter or  
5 any of that stuff to find information about any aspect of  
6 the case.

7 And, of course, you need to continue to keep an  
8 open mind. You can't form or express an opinion on the case  
9 until it's finally submitted to you.

10 So it's really important. Don't discuss it with  
11 anyone. Enjoy this 15-minute break. Are we going to send  
12 them to the ninth floor?

13 COURTROOM DEPUTY: We can't send them to the ninth  
14 floor or just in the hall.

15 THE COURT: We can't send them to the ninth floor.  
16 Do you have another suggestion?

17 COURTROOM DEPUTY: We can keep them in the hall and  
18 lined up to come back in when they're ready.

19 THE COURT: Is the Government standing for a  
20 reason?

21 MS. GLATFELTER: We thought --

22 THE COURT: That's my signal I need to check out  
23 where you are. Okay. We're going to take a break. You can  
24 go anywhere you want in the courthouse. You can probably  
25 step outside, but I need you in the hall by this doorway at

1 12:10, and I have 11:50, so it's a 20-minute break.

2 Use the break to get the muscles going. The blood  
3 going. Don't discuss it with anybody. No independent  
4 research.

5 Out of respect for you, we'll rise for you as you  
6 leave through that door with the assistance of Ms. Santoro.  
7 If you'd rise as they leave. If somebody at the door would  
8 lead them out.

9 (Prospective Jurors exited the courtroom.)

10 THE COURT: Jurors have left the room. Is there  
11 anything that requires my attention before we recess until  
12 12:10? I see nothing. Any lawyer not here at 12:10 will  
13 get on the short list. Enjoy your break. We're in recess.

14 COURTROOM DEPUTY: This court is in recess until  
15 12:10.

16 (Court was in recess at 11:52 a.m. and resumed at 12:11  
17 p.m.)

18 COURTROOM DEPUTY: All rise. This court is back in  
19 session pursuant to the recess.

20 THE COURT: You can be seated. I was hoping to  
21 catch a lawyer not here. We're back on the record. We're  
22 going to check to be sure that the 40 Jurors are standing  
23 outside the door and then bring them in and Mr. Kohnen will  
24 proceed.

25 COURTROOM DEPUTY: All rise for the Jury.

1 (Prospective Jurors entered the courtroom.)

2 THE COURT: Jurors can be seated as you join us.

3 Jurors have returned. You may all be seated. Members of  
4 the Jury, thank you for being back and back on time.

5 Somebody's counted? We have all 40 -- or should I have them  
6 count off?

7 COURTROOM DEPUTY: We have all 40.

8 THE COURT: Very well. Are there any of the 40 who  
9 are not here, would you speak up, please?

10 (Laughter.)

11 (No Prospective Juror responded.)

12 THE COURT: No response. Mr. Kohnen, if you wish  
13 to proceed to inquire, you may do so at this time?

14 MR. KOHNEN: Thank you, Your Honor.

15 THE COURT: Yes.

16 MR. KOHNEN: Ladies and gentlemen, thank you for  
17 your service. I want to echo what the Court said, what Mr.  
18 Mangan said, the job you're going to do here if you're  
19 selected and the help you've given us in selecting the ones  
20 who are honored is an extremely important duty really as a  
21 citizen.

22 On behalf of my client, Mr. Xu, and my colleagues,  
23 again thank you. Thank you also for filling out the Jury  
24 questionnaires. They were very informative and helpful to  
25 us.

1           Can everybody hear me back in the back? I want to  
2       make sure.

3       (Prospective Jurors nod heads affirmatively.)

4           MR. KOHNEN: I also want to apologize a little bit.  
5       When you go last, most of your questions are asked. When  
6       you have to ask them again or get into a little more detail,  
7       they seem redundant; and for that, I apologize, but I'm sure  
8       you understand that it's very important that we find out as  
9       much about you on these matters as we can; fair enough?

10       (Prospective Jurors nod heads affirmatively.)

11           MR. KOHNEN: Thanks. There were, as everybody's  
12       mentioned, a lot of questions in your questionnaires about  
13       China. China, as you know, is a place that's an entirely  
14       different culture. That's literally halfway around the  
15       world.

16           Since you completed those questionnaires, even up  
17       to right now, is there anything you can think of, any  
18       answers that you could think of that should be changed or  
19       should be supplemented, aside from what's already been asked  
20       and answered?

21       (Prospective Jurors shake heads negatively.)

22           MR. KOHNEN: Is there anything else you would  
23       change in the responses you gave to the Court and Mr. Mangan  
24       in that short recess?

25       (No Prospective Juror raised their hand.)

1 MR. KOHNEN: Bottom line, is there anything right  
2 now having, you know, heard all those questions that you  
3 want to let us know about, that you want to weigh in from  
4 your perspective?

5 (No Prospective Juror raised their hand.)

6 MR. KOHNEN: You were asked about whether you had  
7 any knowledge of the case. I think Judge Black asked about  
8 media, about the Internet, et cetera.

9 I just want to make sure, aside from what you've  
10 heard here in the courtroom this morning, does anyone on  
11 this panel have any knowledge about this case?

12 (No Prospective Juror raised their hand.)

13 MR. KOHNEN: I see no hands, Your Honor. One of  
14 the things we noticed from your questionnaires is that a  
15 number of you have got friends or family who are from  
16 China.

17 What, what do you think they would think? What do  
18 you think knowing them? Do you think that Mr. Xu can get a  
19 fair trial here?

20 (No Prospective Juror raised their hand.)

21 MR. KOHNEN: Do you think prejudice might be a  
22 problem?

23 (No Prospective Juror raised their hand.)

24 MR. KOHNEN: Would it surprise any of you to know  
25 that the first time Mr. Xu set foot in the United States was

1       when the F.B.I. brought him here in 2018?

2       (No Prospective Juror raised their hand.)

3               MR. KOHNEN: Does that give anybody pause?

4       (No Prospective Juror raised their hand.)

5               MR. KOHNEN: Is anybody wondering how that  
6       happened?

7       (No Prospective Juror raised their hand.)

8               MR. KOHNEN: Mr. Xu had never before set foot in  
9       the United States of America.

10              Is anybody an aviation buff?

11       (No Prospective Juror raised their hand.)

12              MR. KOHNEN: Anybody a pilot?

13       (Prospective Juror raised their hand.)

14              MR. KOHNEN: Yes, sir. Your number please and use  
15       the microphone?

16              PROSPECTIVE JUROR: Juror 19. I'm a airplane pilot  
17       for United Airlines.

18              MR. KOHNEN: Okay. What kind of jets do you fly?

19              PROSPECTIVE JUROR: 737.

20              MR. KOHNEN: What kind of engine does the 737 have  
21       on it?

22              PROSPECTIVE JUROR: It's a CMF 731.

23              MR. KOHNEN: Okay. And that's a General Electric  
24       engine.

25              PROSPECTIVE JUROR: It's a collaboration CFM.



1 MR. KOHNEN: Who, who -- is that a product of a  
2 joint venture?

3 PROSPECTIVE JUROR: Yes.

4 MR. KOHNEN: And what's the company?

5 PROSPECTIVE JUROR: Not my area of expertise.

6 MR. KOHNEN: I'm fine as long as you know how it  
7 flies and you can fly it, I'm good with that.

8 PROSPECTIVE JUROR: That's true.

9 MR. KOHNEN: Thanks. Is there anybody else who's a  
10 pilot or is an aircraft buff?

11 (No Prospective Juror raised their hand.)

12 MR. KOHNEN: Okay. Good. You know, a lot -- Mr.  
13 Mangan asked a lot of questions about GE Aviation and your  
14 connections to GE Aviation.

15 I'll probably follow-up on some of that toward the  
16 end of my presentation here this morning; but as I was  
17 hearing the questions, it occurs to me that a lot of people  
18 recognize GE as kind of a good cooperate citizen.

19 Is there anybody -- aside from any employment  
20 affiliation or professional affiliation -- that has a  
21 special fondness for GE that might color your judgment in  
22 this case even in a small way?

23 (No Prospective Juror raised their hand.)

24 MR. KOHNEN: I personally don't know much about GE  
25 Aviation. I've learned a lot, I promise you; but, you know,

1 big companies sponsor events. They sponsor sports teams,  
2 little league, what have you.

3 Does anybody have a connection with GE in any way  
4 like that?

5 (No Prospective Juror raised their hand.)

6 MR. KOHNEN: One of the questions that's almost  
7 always asked by the time I get here is, we noticed that a  
8 number of the panelist are lawyers.

9 If you're a lawyer licensed to practice law or  
10 was -- studied law, would you raise your hand, please?

11 (Prospective Jurors raised their hands.)

12 MR. KOHNEN: Okay. And your number, sir?

13 PROSPECTIVE JUROR: Number 4.

14 MR. KOHNEN: Number 4, thank you. And you, sir?

15 PROSPECTIVE JUROR: 24.

16 MR. KOHNEN: 44?

17 PROSPECTIVE JUROR: 24.

18 MR. KOHNEN: Sorry. There's only 40 Jurors. 24.  
19 Thank you. You guys have had legal training, and we need to  
20 know, can you put that legal training and your experience  
21 aside and do what the judge has already told you you're  
22 going to have to do, and he will tell you again, only act as  
23 fact finders in this case? Can you both assure us that  
24 you'll do that?

25 PROSPECTIVE JUROR: Yes.

1 PROSPECTIVE JUROR: Yes.

2 MR. KOHNEN: Thank you, gentlemen. A couple of  
3 potential Jurors also indicated that they have a spouse or a  
4 significant other who's an attorney. First of all, you have  
5 my condolences.

6 But among those, and I'm not asking anybody to  
7 raise their hand unless they think that that's going to make  
8 them a biased or unfair Juror or somebody who wants to get  
9 involved in the law when they should not.

10 Is there anybody here like that?

11 (No Prospective Juror raised their hand.)

12 MR. KOHNEN: We covered law enforcement and  
13 connections to law enforcement, but I want to follow-up and  
14 ask: Has anybody had a job where they had to conduct some  
15 investigations?

16 Maybe you worked in the HR department or maybe you  
17 worked, like, the gentleman that works for the Government  
18 agency and investigated certain things.

19 Has anybody done investigations as part of their  
20 job?

21 (Prospective Juror raised their hand.)

22 MR. KOHNEN: Yes, sir?

23 PROSPECTIVE JUROR: Number 4. As a division  
24 manager or as an engineer, typically related to personnel  
25 issues.

1 MR. KOHNEN: Right. And tell us a little bit more  
2 about that? I mean, did you have to investigate the  
3 employee's conduct, first of all?

4 PROSPECTIVE JUROR: Yes. It's depending on the  
5 circumstance. Mostly auto accidents. Going out, checking  
6 with the individual, and the citizens that were involved,  
7 and then determining the facts as best as I could come up  
8 with them, and then issue a report.

9 MR. KOHNEN: Okay. And did you have ever -- ever  
10 have to do, for example, a forensic review of a  
11 company-owned computers or things of that nature or  
12 supervise that?

13 PROSPECTIVE JUROR: No.

14 MR. KOHNEN: And what about -- this probably is a  
15 no, but what about personal computers?

16 PROSPECTIVE JUROR: No.

17 MR. KOHNEN: Okay. So, you know, with your  
18 experience I'll say, there are occasions when people come on  
19 to company property with their personal devices; right? And  
20 there's maybe some question as to whether or not their  
21 employer has any authority to look at those or seize those,  
22 would you agree?

23 PROSPECTIVE JUROR: There may be question, yes.

24 MR. KOHNEN: Yeah. And by the way, did your job or  
25 does anybody have a job that has ever required them to

1 contact law enforcement?

2 (Prospective Juror raised their hand.)

3 MR. KOHNEN: Yes, sir. Juror Number?

4 PROSPECTIVE JUROR: 21.

5 MR. KOHNEN: Yes, sir.

6 PROSPECTIVE JUROR: I run a, a beetle eradication  
7 program. We often need law enforcement support when  
8 property owners don't cooperate with the, with the program  
9 or our regulations.

10 MR. KOHNEN: Okay. Thank you. Is there anybody  
11 else? Mr. Mangan mentioned it, so I'll asked. I don't want  
12 to go too far. But is there -- he talked about cooperating  
13 witnesses.

14 Is there anybody here who's had the unfortunate  
15 experience of being a cooperating witness with law  
16 enforcement?

17 (No Prospective Juror raised their hand.)

18 MR. KOHNEN: I didn't think so, but I thought I'd  
19 ask. Has anybody ever worked for a company that analyzes or  
20 conducts what's known as business intelligence?

21 (Prospective Juror raised their hand.)

22 MR. KOHNEN: Yes, sir.

23 PROSPECTIVE JUROR: Juror 28. I work for a company  
24 that does data analytics and data science.

25 MR. KOHNEN: Okay. Can you tell us a little bit

1 more about what -- how that company works and what you do  
2 there, please?

3 PROSPECTIVE JUROR: Yeah, we, we analyze purchase  
4 behavior, and then we issue -- or we create sciences that  
5 optimize pricing and coupons and marketing campaigns and  
6 such.

7 MR. KOHNEN: Let me guess, 84.51, formerly known as  
8 Dunnhumby?

9 PROSPECTIVE JUROR: That's right.

10 MR. KOHNEN: Okay. Thank you, sir. That's very  
11 helpful. There's one other person? Yes, sir.

12 PROSPECTIVE JUROR: Juror 36. I had raised my  
13 hand. Within the context of GE Aviation, understanding  
14 competitors in the marketplace.

15 MR. KOHNEN: Okay. Do you do that work, sir?

16 PROSPECTIVE JUROR: I do not do that work, no.

17 MR. KOHNEN: But your company does?

18 PROSPECTIVE JUROR: Yes.

19 MR. KOHNEN: And do you work with the people who do  
20 that analysis and that investigation?

21 PROSPECTIVE JUROR: I do not.

22 MR. KOHNEN: Okay. Thank you very much. You know,  
23 the gentleman who works with 48.51 -- oh, I'm sorry. Yes,  
24 sir?

25 PROSPECTIVE JUROR: Juror Number 38.

1 MR. KOHNEN: Yes, sir.

2 PROSPECTIVE JUROR: I work for a company that does  
3 software development but sometimes involves customer, like,  
4 that company's data to do sort of warehousing slash clean up  
5 and supplies that for those companies.

6 MR. KOHNEN: Okay. What do you do as part of that  
7 mission?

8 PROSPECTIVE JUROR: I am a front-end developer so I  
9 handle a lot of the work in field, and I also try to reduce  
10 education and improve air handling.

11 MR. KOHNEN: So just so you're clear, and I'm going  
12 to ask you to get a little closer to the microphone. Your  
13 company, like, like 84.51, gathers data intelligence, and  
14 uses it; is that right?

15 PROSPECTIVE JUROR: In this case, some of our  
16 clients will have their data, but they don't know how to use  
17 it. They're just supplying it to us, and then we are  
18 analyzing their data and providing it back to them.

19 We're not, we're not independently pulling data  
20 from outside sources. It's these company's data provided --

21 MR. KOHNEN: Very good. So you are on the analysis  
22 side; fair enough?

23 PROSPECTIVE JUROR: Give or take, yeah.

24 MR. KOHNEN: And you have others who gather it for  
25 you; is that right?

1 PROSPECTIVE JUROR: Yeah.

2 MR. KOHNEN: And how does that work, do you know?

3 PROSPECTIVE JUROR: Sort of. A little bit. I know  
4 that sort -- certain clients might have an FTP server that  
5 they will drop files onto, and they will have a process that  
6 will pick up these files and normally put them in -- do some  
7 validation or cleaning, and then we'll store it in certain  
8 tables that will then be utilized for stat reports for these  
9 clients.

10 MR. KOHNEN: Okay. Thank you. Is there anybody  
11 else who is involved with a company that does business  
12 intelligence as we've just kind of heard it described?  
13 (No Prospective Juror raised their hand.)

14 MR. KOHNEN: You know, just to, just to be clear, I  
15 mean, companies, they, they often check out their  
16 competitors. They see what they charge. They see what  
17 products they're selling. They see how those products are  
18 manufactured. That's all the kind of business intelligence  
19 I'm talking about. Does everybody understand what I mean?  
20 Is there anybody who doesn't?  
21 (No Prospective Juror raised their hand.)

22 MR. KOHNEN: I think that 84.51, which is a, kind  
23 of hybrid, I suppose, of that, is a company that really does  
24 the work for Kroger; is that right, sir?

25 PROSPECTIVE JUROR: That's right.



1 MR. KOHNEN: Okay. And they, they gather  
2 information that people don't even know it's being gathered  
3 about them, do they?

4 PROSPECTIVE JUROR: That's not exactly right.  
5 There's all sorts of checks and balances in place to know  
6 that as you're purchasing items, that that data's being  
7 gathered.

8 MR. KOHNEN: Right. Okay. Very good. The -- I  
9 just want to cover this very quickly. Does anybody feel  
10 that the Department of Justice lawyers, such as these three  
11 (Indicating), never make a mistake?  
12 (No Prospective Juror raised their hand.)

13 MR. KOHNEN: Does anybody believe that they only  
14 bring prosecutions of cases that they can prove guilt on?  
15 (No Prospective Juror raised their hand.)

16 MR. KOHNEN: I'm going to continue to note no  
17 responses, Your Honor.

18 Is there anybody here who would automatically give  
19 more weight to a witness because they came from the F.B.I.  
20 or another law enforcement agency?  
21 (No Prospective Juror raised their hand.)

22 MR. KOHNEN: I take it by the fact that there are  
23 no responses, that you all are willing to treat the  
24 testimony of a law enforcement officer the same as any other  
25 testimony; is that right?

1 (Prospective Jurors nod their heads affirmatively.)

2 MR. KOHNEN: I've never once not had a hand raised  
3 to that question, but I'm grateful that I don't see any.

4 Has anyone heard of the United States Department of  
5 Justice and the F.B.I.'s China Initiative?

6 (No Prospective Juror raised their hand.)

7 MR. KOHNEN: Have you read about it or heard about  
8 it at all?

9 (No Prospective Juror raised their hand.)

10 MR. KOHNEN: The China Initiative is a very  
11 broad --

12 THE COURT: Excuse me. Excuse me. Excuse me.  
13 Questions for the witness.

14 MR. KOHNEN: I want to make sure, Your Honor, if I  
15 might?

16 THE COURT: I don't want you testifying.

17 MR. KOHNEN: Okay. Just to make sure that you  
18 don't know what I'm talking about when I mention The China  
19 Initiative. It's a very broad investigation of China and  
20 Chinese National Guards --

21 THE COURT: Excuse me.

22 MR. KOHNEN: -- in the U.S. --

23 THE COURT: Excuse me. I told you I didn't want  
24 you to do that.

25 MR. KOHNEN: Okay.

1           THE COURT: You asked them if they were aware of  
2 it, and they said no.

3           MR. KOHNEN: Does, does anybody have strong  
4 opinions about foreign corporations doing business in the  
5 United States?

6 (No Prospective Juror raised their hand.)

7           MR. KOHNEN: Do you think it's good? Do you think  
8 it's bad? Any, any opinions about that?

9 (No Prospective Juror raised their hand.)

10          MR. KOHNEN: Does anybody have strong opinions  
11 about American corporations doing business in China?

12 (No Prospective Juror raised their hand.)

13          MR. KOHNEN: I see no hands. Does everyone agree  
14 that individuals and businesses who do business in foreign  
15 countries must obey the laws and customs of those foreign  
16 countries? Does anybody have a problem with that?

17 (No Prospective Juror raised their hand.)

18          MR. KOHNEN: So if a Chinese company comes to the  
19 United States, they have to obey our laws?

20 (Prospective Jurors nod their heads affirmatively.)

21          MR. KOHNEN: And if we or -- as a company or  
22 employees go to China, we have to obey their laws? Is  
23 everyone clear on that?

24 (Prospective Jurors nod their heads affirmatively.)

25          MR. KOHNEN: Now one thing about China is they have

1 laws, but they also have customs; and the distinction  
2 between customs and laws, based on what I've learned, can  
3 get a little blurred; okay? Customs typically -- which go  
4 back centuries -- trump laws in a sense.

5 So it's really important that people who go to  
6 China understand and obey their customs as well. Is  
7 everybody on board with that?

8 (Prospective Jurors nod their heads affirmatively.)

9 MR. KOHNEN: Let's talk for just a minute about  
10 what I'm going to call optics. You all have noticed that  
11 there are a lot of attorneys here who are representing Mr.  
12 Xu.

13 You noticed that there are three attorneys and an  
14 agent here on behalf of the Government. Bearing in mind  
15 that lots of other attorneys and agents almost certainly  
16 worked on this case, do you think that this is a fair fight,  
17 will you agree?

18 It's not -- we're not out numbering them? Not out  
19 manning them. Does that give anybody any cause for concern?  
20 (No Prospective Juror raised their hand.)

21 MR. KOHNEN: Everybody agrees that while at first  
22 it might kind of look unfair, we've got a level playing  
23 field here; correct?

24 (No Prospective Juror raised their hand.)

25 MR. KOHNEN: All right. Judge Black and Mr. Mangan

1 have addressed a very important issue, and I want to cover  
2 it from a slightly different, a slightly different angle.

3 Has anybody here had what's called biased training?

4 (Prospective Jurors raised their hands.)

5 MR. KOHNEN: Yes, sir. Good. Okay. Anybody else?

6 (Prospective Jurors raised their hands.)

7 MR. KOHNEN: Okay. Okay. I'm going to tell you  
8 what bias training is just to make sure we're on the same  
9 page here.

10 I'm going --

11 THE COURT: I'm going to interrupt, and you'll  
12 forgive me. When the lawyers talk, it's not evidence. You  
13 haven't heard a word about evidence.

14 I interrupted him once because he was going to tell  
15 you something you didn't know about. If you're going to be  
16 told stuff, you're going to be told stuff by the witness.  
17 But you can go ahead, go ahead and do the best you can not  
18 to --

19 MR. KOHNEN: I will, Your Honor. Ladies and  
20 gentlemen, what I want to do is I want to ask you if you  
21 understand that all of us have something that's known as  
22 implicit bias? Has anyone heard this before?

23 (Prospective Jurors raised their hands.)

24 MR. KOHNEN: I thought so. May I continue?

25 THE COURT: Yes.

1           MR. KOHNEN: Implicit bias is something that we all  
2           have in us that is prejudice to someone because of their  
3           gender or their race or their sexual orientation. We can't  
4           help it. Lots of times we don't even recognize it.

5           I want to make sure that each and every one of you,  
6           if selected to be a Juror, is going to make sure that  
7           whatever bias exists is pushed away from your job as fact  
8           finders in this case.

9           Can I have that assurance from each and every one  
10          of you, please? Raise your hands.

11         (Prospective Jurors raised their hands.)

12          MR. KOHNEN: Thank you. Everybody understands,  
13          don't they, that countries have intelligence services;  
14          right?

15          For example, the United States has the C.I.A., and  
16          the N.S.A., and lots of other intelligence agencies; and  
17          Great Britain, they have the MI6 and the MI5. In Russia  
18          they have the Federal Security Service and the Foreign  
19          Intelligence Service, which by the way used to be the KGB,  
20          and China has intelligence services too; right? That makes  
21          sense. Does anybody disagree with that?

22         (No Prospective Juror raised their hand.)

23          MR. KOHNEN: Okay. Does anyone think it's wrong  
24          for a country to have an intelligence service?

25         (No Prospective Juror raised their hand.)

1 MR. KOHNEN: It's important to a country's defense,  
2 isn't it?

3 (No Prospective Juror raised their hand.)

4 MR. KOHNEN: Does anyone think that somebody who  
5 works for an intelligence agency -- whether for our country  
6 or for another country -- has to be a spy?

7 (No Prospective Juror raised their hand.)

8 MR. KOHNEN: Again, I see no hands. This is a  
9 rhetorical question: But what do you think the purpose of  
10 an intelligence agency like the C.I.A. is?

11 (No Prospective Juror raised their hand.)

12 MR. KOHNEN: It's to gather intelligence; right?  
13 Would it surprise you to know -- and this is a question that  
14 I want answered -- would it surprise you to know that the  
15 vast majority of information that these intelligence  
16 services gather is public information?

17 (No Prospective Juror raised their hand.)

18 MR. KOHNEN: Nobody's surprised by that?

19 (No Prospective Juror raised their hand.)

20 MR. KOHNEN: Sometimes you'll hear during the trial  
21 the expression, open-source, and that's what I'm talking  
22 about. Stuff that is not -- doesn't qualify in this case,  
23 for example, as trade secrets.

24 Does everybody agree that that should be fair game?

25 (No Prospective Juror raised their hand.)

1 MR. KOHNEN: I'm assuming that I see no hands, that  
2 everybody agrees? And if I'm wrong about that, please raise  
3 your hand?

4 (No Prospective Juror raised their hand.)

5 MR. KOHNEN: So let's see. Intelligence services  
6 just don't -- they don't just deal in secret information.  
7 There's lots of public information that could be useful to  
8 them for whatever their purposes are. We all agree on that?

9 (No Prospective Juror raised their hand.)

10 MR. KOHNEN: And human beings also can be sources  
11 of information for intelligence services as well, don't you  
12 agree?

13 (No Prospective Juror raised their hand.)

14 MR. KOHNEN: I'm not talking about cloak and dagger  
15 meetings and drop locations and all this stuff you see in  
16 the movies, but what I'm looking about is friending somebody  
17 on Facebook, finding somebody on LinkedIn, communicating  
18 with somebody on -- I forget -- Instagram, just asking a  
19 person to make an introduction.

20 Those things all can lead to human interaction and  
21 information being shared with people in an intelligence  
22 service. Does everybody agree with that?

23 (No Prospective Juror raised their hand.)

24 MR. KOHNEN: Now, in this case you're going to hear  
25 that a lot of information was gathered, and it's going to be



1 up to you to decide whether or not that was a trade secret.

2 I'll get to this in a minute, but Judge Black would  
3 define what a trade secret is. Does everybody understand  
4 that?

5 (No Prospective Juror raised their hand.)

6 MR. KOHNEN: Sometimes trade secret will be used as  
7 a synonym with other words; and I want to be clear that the  
8 trade secret per the law has a very distinct definition. Is  
9 everybody okay with that concept?

10 (Prospective Jurors nod their heads affirmatively.)

11 MR. KOHNEN: I'll have more for you on that in a  
12 minute.

13 One of the most important aspects of a trade secret  
14 is that it can't be found through public means or acquired  
15 otherwise; okay?

16 And Judge Black will define trade secrets. I think  
17 he will include that in his definition, but the important  
18 thing I want to make sure that everybody agrees with is when  
19 it comes to defining the trade secret and deciding whether  
20 something was or was not a trade secret, that's a question  
21 of fact, and that's for you to decide. Is everybody clear  
22 on that?

23 (No Prospective Juror raised their hand.)

24 MR. KOHNEN: Another important question in this  
25 case is going to be my client, Mr. Xu's intent, what he

1 intended or didn't intend to do. That is up to you and only  
2 you as well. Is everybody comfortable with that?

3 (Prospective Jurors nod their heads affirmatively.)

4 MR. KOHNEN: You've heard a lot already about the  
5 presumption of innocence. I'm not going to spend a lot of  
6 time on that, but does everybody understand that that is a  
7 pre-sumption? It is presumed, and not an as-sumption, which  
8 is assumed? I think there's a difference. Does everybody  
9 agree?

10 (Prospective Jurors nod their heads affirmatively.)

11 MR. KOHNEN: That's an important concept because,  
12 again, with, you know, the possibility of bias and  
13 circumstances, the trade wars in China, the responses to  
14 your questionnaires about China, it would be pretty easy to  
15 come in here and assume the worst about my client.

16 Can everybody put that out of your mind and decide  
17 this case objectively based only on what you hear in this  
18 courtroom?

19 (Prospective Jurors nod their heads affirmatively.)

20 MR. KOHNEN: Mention was made, I believe, and it  
21 certainly will be again, of a thing called an indictment,  
22 okay? For purposes -- going forward, an indictment is  
23 simply a piece of paper that sets forth for Mr. Xu, for us,  
24 his attorneys, and for the Court, the claims that the  
25 Government has made against him.

1           There's nothing else about the indictment that you  
2           may consider, and you may not -- I stress -- not consider it  
3           as evidence --

4           THE COURT: Mr. Kohnen, I'm going to interrupt.  
5           I'd like you to ask questions of the Jurors.

6           MR. KOHNEN: The judge touches on but didn't spend  
7           a lot of time on reasonable doubt. Is everybody comfortable  
8           with that concept?

9           (Prospective Jurors nod their heads affirmatively.)

10          MR. KOHNEN: Does everybody understand if you  
11          probably think this man's guilty, that you must vote to  
12          acquit? Not convict?

13          (No Prospective Juror raised their hand.)

14          MR. KOHNEN: Would anybody here have difficulty  
15          following those principles?

16          (Prospective Jurors nod their heads affirmatively.)

17          MR. KOHNEN: Likewise, for this concept of beyond a  
18          reasonable doubt, the judge did a good job there. I can add  
19          more, but is anybody uncomfortable with that standard?

20          (No Prospective Juror raised their hand.)

21          MR. KOHNEN: Now, the evidence in this case is  
22          going to start when the prosecution presents its first  
23          witness. That witness will testify on what's known as  
24          direct examination. In other words, the witness will be  
25          questioned by one of the Government's lawyers, and they'll

1 give answers.

2 And then the witness will be cross-examined by me  
3 or one of my colleagues, and the witness will give answers  
4 to those questions.

5 Does everybody agree that the answers to both sets  
6 of questions get equal weight?

7 (Prospective Jurors nod their heads affirmatively.)

8 MR. KOHNEN: Everybody agrees that the answers that  
9 come out on cross-examination are potentially just as  
10 important as the questions that came out on direct  
11 examination? Makes sense; right?

12 (Prospective Jurors nod their heads affirmatively.)

13 MR. KOHNEN: This is going to be a long trial.  
14 Judge Black has made that clear. Hopefully it's not going  
15 to be as long as we've provided for, but better that we do  
16 that than make a promise we can't keep to you.

17 And you're going to hear a lot of evidence, but  
18 does everybody realize that the amount of evidence is not a  
19 substitute for the quality of the evidence?

20 (No Prospective Juror raised their hand.)

21 MR. KOHNEN: Is there anybody that needs me to  
22 explain that principle -- try to explain that principle  
23 further? Are you all there?

24 (No Prospective Juror raised their hand.)

25 MR. KOHNEN: Good. And another really important

1 principle is Mr. Xu's right not to testify, and his right  
2 not to present any evidence at all.

3 Does anyone think that if he doesn't testify, he's  
4 probably guilty?

5 (No Prospective Juror raised their hand.)

6 MR. KOHNEN: Does anybody think that if he doesn't  
7 testify, it's more likely that he's guilty?

8 (No Prospective Juror raised their hand.)

9 MR. KOHNEN: I ask these questions because a number  
10 of you indicated on your Jury questionnaires that you'd like  
11 to hear the Defendant's side of the story. You've indicated  
12 in instances that you'd like to hear him testify.

13 Does everybody understand that whatever notion you  
14 had -- and I'm not going to single anybody out -- but does  
15 everybody understand that whatever notion you might have had  
16 about that, you can't happen any longer?

17 (No Prospective Juror raised their hand.)

18 MR. KOHNEN: Is there anyone that has a problem  
19 with that?

20 (No Prospective Juror raised their hand.)

21 MR. KOHNEN: Is there anybody here that would have  
22 a problem voting not guilty if the Government got close to  
23 proving the case by beyond a reasonable doubt but failed?

24 (No Prospective Juror raised their hand.)

25 MR. KOHNEN: Is there anybody that would have a

1       problem voting not guilty if the Government covered most of  
2       the elements of the offense? That is, the things that they  
3       must prove in order to convict. Would you still want to  
4       vote guilty?

5       (No Prospective Juror raised their hand.)

6               MR. KOHNEN: I see no hands. Thank you, folks.  
7       May I have just a moment, Your Honor?

8               THE COURT: Yes.

9       (Mr. Kohnen confers with co-counsel.)

10              MR. KOHNEN: Sorry for the delay, ladies and  
11       gentlemen. A couple of personal questions -- not too  
12       personal. How do you think you might react as a Juror if  
13       it's difficult to come to a unanimous verdict? Are you  
14       stubborn, inflexible, or strong-willed? If you are, raise  
15       your hand. I probably won't follow-up.

16       (No Prospective Juror raised their hand.)

17              MR. KOHNEN: Are you described maybe as a follower  
18       or a pushover? Likewise, I won't follow-up, but I would  
19       like to see a hand?

20       (No Prospective Juror raised their hand.)

21              MR. KOHNEN: Are you a person who finds it  
22       difficult to hold on to your opinion, to stick to your  
23       opinion if you're out numbered?

24       (No Prospective Juror raised their hand.)

25              MR. KOHNEN: Can each of you resist the temptation

1       -- and it might be pretty severe -- resist the temptation to  
2       decide for yourself what the law should be, to expand  
3       perhaps the definition of trade secret that Judge Black  
4       gives you?

5       (No Prospective Juror raised their hand.)

6               MR. KOHNEN:  Is everybody going to stay within the  
7       four corners of that definition, and can you promise us  
8       that?

9       (Prospective Jurors nod their heads affirmatively.)

10              MR. KOHNEN:  Again, I see no hands.  Thank you,  
11       ladies and gentlemen.

12              We've been at this for quite, quite a while, and  
13       I'm not going to belabor it much longer.  Sorry to do even  
14       this, but is there anybody who sat through all of this now  
15       and is thinking down in their heart of hearts, you know  
16       what, this fellow, this fellow might be guilty?

17       (No Prospective Juror raised their hand.)

18              MR. KOHNEN:  If you were a Defendant, would you  
19       want yourself as a Juror deciding your fate?

20       (No Prospective Juror raised their hand.)

21              MR. KOHNEN:  Is there anybody who has a religious  
22       or philosophical or deeply personal reason why they just are  
23       reluctant to judge people and their conduct?

24       (No Prospective Juror raised their hand.)

25              MR. KOHNEN:  Is there any reason any one of you

1 believes that you can't give Mr. Xu a fair trial?

2 (No Prospective Juror raised their hand.)

3 MR. KOHNEN: Again, no hands. Very well. Ladies  
4 and gentlemen, if you could promise to decide the facts  
5 based only on the evidence presented in this courtroom and  
6 apply the law as Judge Black instructs you, that's all we  
7 can ask. So, again, I want to thank you very much for your  
8 service.

9 Your Honor, that concludes my questions and  
10 remarks.

11 THE COURT: Thank you, Mr. Kohnen. Members of the  
12 Jury, I think I indicated to you when we started that once  
13 we reached this stage, I was going to have to excuse all of  
14 you, talk to the lawyers, and select a Jury. It's going to  
15 take some time.

16 I'm going to ask that you be back up in the ninth  
17 floor Jury Room -- you know what I'm talking about?

18 (Prospective Jurors nod their heads affirmatively.)

19 THE COURT: -- by 2 o'clock. That's an hour. And  
20 I hope we're ready to get you then. I'll work hard at it,  
21 but it's going to take that significant period of time. You  
22 might as well know it now rather than sit up there and keep  
23 waiting.

24 So during the break, do not discuss these  
25 proceedings in any way with anyone, including your fellow



1 Jurors.

2 If anyone approaches you, tries to discuss it, let  
3 me know. Must not conduct any independent search about the  
4 trial or read, listen to, or watch any news reports, if any,  
5 of the trial.

6 You may not chat or use Google, Facebook, Twitter,  
7 et cetera, to find information about any aspect of the case.

8 Finally, remember that it's especially important  
9 that you keep an open mind. Don't form or express an  
10 opinion until it's been finally submitted to you.

11 So take your break. Welcome to go outside the  
12 courtroom. I'm going to need you in the ninth floor room by  
13 2 o'clock in the hopes that we can get you at that time.

14 Out of respect for you, we'll rise as you leave for  
15 an hour.

16 COURTROOM DEPUTY: All rise for the Jury.

17 (Prospective Jurors exited the Courtroom.)

18 THE COURT: Jury's left the room. The door is  
19 closing. Anything that requires the Court's attention  
20 before we recess for an hour from the Government -- oh,  
21 we're not recessing yet, are we? We're going to do Cause,  
22 so you may be seated.

23 Ms. Frankian, if you could have Mr. Hall assist you  
24 and bring a chair up next to me and join me? Thank you.

25 All right. We will address Challenges for Cause.

1 I propose to go to the Government and ask you for your  
2 Challenges for Cause, and then go to the Defense and ask you  
3 for your Challenges for Cause.

4 MR. MANGAN: Can we just have one moment, Your  
5 Honor?

6 THE COURT: Yes.

7 (Counsel for both sides confer with co-counsel.)

8 MR. MANGAN: We're ready when you are, Your Honor.  
9 We're ready when you are, Your Honor.

10 THE COURT: Very well. Give me just a moment. I'm  
11 ready. Thank you. What I would propose is that we run  
12 through the Government's objections for Cause, and then run  
13 through the Defendant's objections for Cause.

14 Is there any objection to that from the Government?

15 MR. MANGAN: No, Your Honor.

16 THE COURT: From the Defense?

17 MR. KOHNEN: No, thank you, Judge.

18 THE COURT: Very well. Mr. Mangan, you can  
19 proceed.

20 MR. MANGAN: Your Honor, we have four that we would  
21 suggest for Cause.

22 THE COURT: All right.

23 MR. MANGAN: Starting with Number 7. He's the  
24 individual who indicated the hand surgery and the issue with  
25 the physical therapy.

1           THE COURT:   Okay.   Let me pause there.   Does the  
2   Government want to be heard on that Cause?

3           MR. MANGAN:   Do you mean the Defense?

4           THE COURT:   Yes.   Sorry.   Challenging for Cause  
5   because of his hand surgery, need for physical therapy; is  
6   that right, Mr. Mangan?

7           MR. MANGAN:   Correct.

8           MR. KOHNEN:   Judge, I believe that that Prospective  
9   Juror said that he was going to try to work his schedule of  
10   his physical therapy so he could attend the trial.   He  
11   seemed pretty earnest about that.   Otherwise, we don't see  
12   any other reason to excuse this Potential Juror.

13          THE COURT:   The Court declines to excuse for  
14   Cause.

15          MR. MANGAN:   The next one, Your Honor, is Number  
16   10.   That was the individual who indicated he has a new job  
17   starting on Monday as well as an obligation to do some drug  
18   testing in between.

19          THE COURT:   Defense wish to be heard?

20          MR. KOHNEN:   We concur.

21          THE COURT:   Ten is excused for Cause.

22          MR. MANGAN:   The next one we would suggest, Your  
23   Honor, is Number 15.   This is the Juror who indicated that  
24   he and his wife were in a car accident, and that his wife is  
25   injured, and they have obligations regarding babysitting for

1 a grandchild.

2 THE COURT: Defense wish to be heard?

3 MR. KOHNEN: May I just a moment, Your Honor?

4 THE COURT: Yes.

5 (Mr. Kohnen confers with co-counsel.)

6 MR. KOHNEN: Your Honor, I don't think that that's  
7 an appropriate reason to strike this Juror for Cause.

8 THE COURT: Let me get focused again. Who are we  
9 chatting about, Juror Number?

10 MR. KOHNEN: Juror Number 15.

11 THE COURT: All right. Yeah, I've got it. Go  
12 ahead. And speak up, please.

13 MR. KOHNEN: I think that he's in exactly the same  
14 spot as the last Juror, not exactly but pretty close. He's  
15 got some conflicts that are potential conflicts. He's got  
16 some problems that may come down the road.

17 He's the one whose wife -- he and his wife were in  
18 an automobile accident, but I don't think that he rises to  
19 the level of an excuse for Cause.

20 You know, it's not lost on me, Your Honor, that  
21 we've got a pretty small panel to begin with, but that  
22 figures into my thinking somewhat.

23 THE COURT: I'm going to exclude that person for  
24 Cause. They testified that -- as to his wife's condition  
25 and their concern. I grant him -- excuse him for Cause. I

1       may revisit the other gentleman.

2               MR. MANGAN: The last one we would present, Your  
3 Honor, would be Juror Number 40. This is the individual who  
4 is 79 and indicated he had just been diagnosed with Stage 4  
5 Lung Cancer.

6               THE COURT: And why should he be excused?

7               MR. MANGAN: Simply because, I believe, he  
8 indicated that he's starting the treatments and is not clear  
9 as to how that might impact him.

10              THE COURT: I'm not trying to be difficult. It's  
11 possible we might all die. He's got Stage 4 Cancer. That's  
12 horrible. He's 79. He didn't want to be excused for age.

13              MR. MANGAN: I understand that.

14              THE COURT: And there's no indication that he, you  
15 or I are going to die, and we can't predict that. So help  
16 me understand that?

17              MR. MANGAN: I think it was just -- my concern,  
18 Your Honor, was -- from what I recall he mentioned was the  
19 recency of the diagnosis and his uncertainty as to what the  
20 treatments would be and how it would impact him, so I just  
21 didn't -- we were concerned about something happening  
22 during the trial to where he would suddenly reconsider  
23 whether or not he could serve.

24              THE COURT: Fair enough. Defense wish to be heard  
25 on 40?

1           MR. KOHNEN: Again, not, not an appropriate reason,  
2 we think, Your Honor. If they want to excuse him, they can  
3 use a Peremptory. He indicated an interest in serving, and  
4 I don't see anything on the horizon that he mentioned that  
5 is going to prevent that.

6           THE COURT: We're going to revisit him. Has the  
7 Government run through its Challenges for Cause?

8           MR. MANGAN: Yes, Your Honor.

9           THE COURT: Very well. Defense prepared to  
10 proceed? All right. While you're thinking, let me  
11 interrupt. I'm revisiting Juror Number 7, the one with the  
12 reconstructive hand surgery. Told us he was going to try  
13 and do his PT at 7 or 7:30 a.m., but he had no indication  
14 that he was scheduled.

15           I can't run the risk that he comes in tomorrow and  
16 tells me he was unable to schedule it and cannot serve. I  
17 excuse him for hardship and cause.

18           I'm ready if you are, but if you need more time,  
19 I'm cool too?

20           MR. KOHNEN: Oh, no, we're ready to get started,  
21 Judge. Let's start with Number 36.

22           THE COURT: How many do you have?

23           MR. KOHNEN: Four or five.

24           THE COURT: Okay. 36?

25           MR. KOHNEN: 36 is somebody who's still working

1 at GE and has been there for 20 years. That in and of  
2 itself we believe is enough that he should be excused for  
3 Cause.

4 THE COURT: Government wish to be heard?

5 MR. MANGAN: Yes, Your Honor. I believe he  
6 indicated that he works in the business where they service  
7 planes that have already -- or engines that have already  
8 been sold. He did not have any connection to the design  
9 process. Did not know the witnesses. Did not know about  
10 the case, so we don't believe it's appropriate for a Cause  
11 strike.

12 MR. KOHNEN: Your Honor, if I might. He said that  
13 before he worked where he works now, he worked in research  
14 and development. That's precisely the area we're talking  
15 about.

16 THE COURT: Fair enough. I don't think his  
17 association with GE per se is bias, and he's not excused for  
18 Cause. There are other options.

19 MR. KOHNEN: Next is Number 16. Number 16 on his  
20 Juror questionnaire indicated that when it comes to China,  
21 he cannot be impartial.

22 THE COURT: Talking about Number 16?

23 MR. KOHNEN: That's right.

24 THE COURT: Government wish to be heard?

25 MR. MANGAN: Your Honor, all I would indicate is

1       that, you know, everyone checked different boxes related to  
2       the questionnaire. If they had a specific concern about  
3       that, they could have questioned him on it.

4               He was questioned on quite a number of other issues  
5       related to, you know, his connection to GE, issues relating  
6       to availability.

7               If they had concerns about his ability to be fair  
8       and impartial, they could have questioned him directly, and  
9       they chose not to.

10              THE COURT: Defense want the last word?

11              MR. KOHNEN: Yeah, Judge, with all due respect, the  
12       gentleman checked the box. As soon as we saw that, we  
13       assumed he's off for Cause. This is a person who on the  
14       Jury questionnaire who checked the box that when it comes to  
15       a Chinese person, he cannot be impartial.

16              THE COURT: Can we have a dialogue?

17              MR. KOHNEN: Sure.

18              THE COURT: On the questionnaire he was asked, did  
19       he have any opinions or beliefs about China? And he said --  
20       he didn't fill that out. He said -- didn't check it. He  
21       said no.

22              Then on the next question: Is it going to affect  
23       you -- how you rule on the testimony? He said, yes.

24       Didn't make any sense. We had him in here. We talked to  
25       him numerous times, and I had no indication that he was



1 going be biased.

2 What's your, what's your response to that? And I  
3 just want to have a dialogue with you. I'm not trying to  
4 steam roll anything --

5 MR. KOHNEN: Judge --

6 THE COURT: -- but I don't want you going hanging  
7 your hat on that one check on the questionnaire.

8 MR. KOHNEN: You know, Judge, I -- that's the only  
9 place I believe we need to hang our hat.

10 THE COURT: Well, keep your voice up for me,  
11 please.

12 MR. KOHNEN: Judge, what, we were not -- once we  
13 saw that, we were not interested in trying to rehabilitate  
14 this person. Where they checked the box matters not. Where  
15 they put those words in our view matters not.

16 THE COURT: Can I tell you something? That that  
17 response was really helpful to me, and it's because we had a  
18 dialogue without being rat-a-tat-tatting back and forth.  
19 He's also got a child with heart disease.

20 MR. KOHNEN: Yes.

21 THE COURT: I excuse him for Cause.

22 MR. KOHNEN: Thank you, Judge. Note to self. I  
23 understand.

24 THE COURT: What did you say?

25 MR. KOHNEN: I said, note to self. I understand

1       what you're saying, and I appreciate it.

2               THE COURT:   Note to self, Judge, thank God we have  
3       great lawyers on both sides.   Decent human beings as well.  
4       Well dressed on occasion.

5       (Mr. Kohnen confers with co-counsel.)

6               MR. KOHNEN:   Judge, I think we have one more.   Just  
7       a second.

8               THE COURT:   I'm doing fine.   Trying not to snap.  
9       (Mr. Kohnen confers with co-counsel.)

10              MR. KOHNEN:   Your Honor, our last request for a  
11       Challenge for Cause would be Juror Number 9.   You might  
12       recall, he's the Prospective Juror who needs some dental  
13       work done.

14              He also was an employee of GE Aviation.   He was the  
15       one, who in our view, hesitated pretty profoundly when asked  
16       questions about GE, and would he be biased; and for that  
17       reason -- those reasons, excuse me, and also some of his  
18       answers on the Jury questionnaire particularly where he  
19       believes a Juror should testify, he said that he strongly  
20       believes -- or that Defendant, pardon me, said that he  
21       strongly believes that, that and his military experience,  
22       lead us to request that he be excused for Cause.

23       (Mr. Kohnen confers with co-counsel.)

24              MR. KOHNEN:   Your Honor, in spirit of all  
25       disclosure, if I said strongly that word may have been

1 inappropriate --

2 THE COURT: If you'd speak up?

3 MR. KOHNEN: I didn't mean to use the word  
4 strongly.

5 THE COURT: In regard to what? Your love of me? I  
6 don't know what you're saying.

7 MR. KOHNEN: In regard to his thoughts that a  
8 Defendant should testify.

9 THE COURT: Okay. I just didn't understand. Mr.  
10 Mangan?

11 MR. MANGAN: Your Honor, with respect to the issue  
12 of the Defendant testifying, I believe the Court asked the  
13 entire panel a series of questions covering that, and  
14 everyone indicated that they could follow the Court's  
15 instructions.

16 Secondly, I would indicate that a person's military  
17 service is no ground at all for striking them from Jury  
18 service. Certainly not for Cause.

19 And then with respect to his GE employment, I  
20 believe he works as, it was -- had to do with electrical  
21 maintenance was what he indicated, and that that was the  
22 field that he worked in. Was not related to design. Did  
23 not know any of the witnesses. Did not know anything about  
24 the case.

25 And then with respect to the filling falling out,

1 he indicated he would need to schedule an appointment. He  
2 didn't know when that would be, but he, you know, seemed --  
3 there seemed to be some flexibility there as to when that  
4 might be able to be accommodated and perhaps that could even  
5 work with flexibility with the trial schedule.

6 So putting all those together, Your Honor, we don't  
7 see any ground for striking him for Cause.

8 THE COURT: I think there's too much that's  
9 problematic about him. I'll start at the top. At the very  
10 end of your examination of him as to whether he would be  
11 able to not favor or disfavor a GE witness, I personally  
12 thought I saw significant hesitation, and you have spoken to  
13 him.

14 GE Aviation employment per se is not a basis, but  
15 that caused me significant pause; and although I banged on  
16 all of the Jurors about, you don't have to testify, his was  
17 the most hostile expression and that in the questionnaire,  
18 and I strike him for Cause.

19 Are we through with Challenges for Cause?

20 MR. KOHNEN: We are from the Defense, Your Honor.  
21 Thank you.

22 THE COURT: From the Government?

23 MR. MANGAN: Yes, Your Honor. Thank you.

24 THE COURT: All right. I'm inclined to recess. I  
25 told them we were was going to try to get them at two.

1 It's, like, 1:25. It's sort of within the 20 to 30 minute  
2 suggestion.

3 Are you ready to come back -- I'll check if you're  
4 not -- but do you think you'll be ready to come back at two  
5 to do -- at 2 o'clock -- well, at 10 minutes of two -- in  
6 half an hour -- in five minutes of two to do Peremptories?  
7 The Government?

8 MR. MANGAN: That would be fine, Your Honor, if --  
9 can you kind of maybe walk through what you want the  
10 schedule to be after that?

11 THE COURT: In regard to what?

12 MR. MANGAN: Just in terms of whenever we finish,  
13 would we go right into openings?

14 THE COURT: No.

15 MR. KOHNEN: Okay.

16 THE COURT: The Defense has something they want to  
17 bring to my attention after we pick the Jury; is that right,  
18 Mr. Kohnen?

19 MR. KOHNEN: That's correct, Judge.

20 THE COURT: And that's going to take a little time,  
21 so we're going to break. We're not going straight to  
22 closing.

23 MR. MANGAN: Okay.

24 THE COURT: We'll see if we get to closing.  
25 Defense okay with the estimated time I come back to see if

1       you're ready?

2               MR. KOHNEN:   You want us back here at two or five  
3       minutes to two?

4               THE COURT:   Five minutes to two?

5               MR. KOHNEN:   Okay.   Yes, Judge, we'll get it done.

6               THE COURT:   Thanks.   You don't have to leave, but  
7       you may.   We're in recess.

8               COURTROOM DEPUTY:   All rise.   This court is now in  
9       recess.

10       (Court was in recess at 1:23 p.m. and resumed at 2:07 p.m.)

11              COURTROOM DEPUTY:   All rise.   This court is in  
12       session pursuant to the recess.

13              THE COURT:   You may be seated.   Thank you.  
14       Government team is here in full.   Defense team is here in  
15       full.   The Defendant is here with the interpreter.   No  
16       Jurors in the room.

17              We are prepared to proceed to Peremptory  
18       Challenges.   Is the Government ready to proceed?

19              MR. MANGAN:   We are, Your Honor.

20              THE COURT:   Is the Defense?

21              MR. KOHNEN:   Yes, Your Honor.

22              THE COURT:   Very well.   Does the Government wish to  
23       exercise its first Peremptory Challenge?

24              MR. MANGAN:   Yes, Your Honor.   We strike Number 24.

25              THE COURT:   24 is stricken by the Government.   Does

1 the Defendant wish to exercise its first and second  
2 Peremptory strike?

3 MR. MIEDEL: Yes, Your Honor. We ask to strike  
4 Number 21 and Number 36.

5 THE COURT: Both are stricken, 21 and 36. Is the  
6 Government ready to exercise its second Peremptory?

7 MR. MANGAN: Yes, Your Honor. We strike Number 14.

8 THE COURT: 14 is stricken. Tell me to slow down  
9 if I need to. Is the Defendant ready to exercise its third  
10 and fourth Challenges?

11 MR. MIEDEL: Yes, Your Honor. We ask to strike  
12 Number 18 and Number 28.

13 THE COURT: 18 and 28 are stricken. Is the  
14 Government ready to exercise its third Peremptory strike?

15 MR. MANGAN: Yes, Your Honor. We strike Number 22.

16 THE COURT: 22. Very well. 22 is stricken. Is  
17 the Defense ready to exercise its fifth and sixth Peremptory  
18 Challenges?

19 MR. MIEDEL: Yes, Your Honor. We ask to strike  
20 Number 26 and Number 5.

21 THE COURT: 26 and 25 are stricken.

22 MR. MIEDEL: I'm sorry. Number 26 and Number 5.

23 THE COURT: Yes, and I meant to say that. 26 and 5  
24 are stricken.

25 MR. MIEDEL: Thank you.

1 THE COURT: Is the Government ready on its fourth?

2 MR. MANGAN: Your Honor, we strike Number 32.

3 THE COURT: 32. 32 is stricken. Is the Defense  
4 ready on seven and eight?

5 MR. MIEDEL: Yes, Number 13 and Number 1.

6 THE COURT: 13 and -- nope. 13 and 1 are  
7 stricken. Government ready to exercise its fifth  
8 Challenge?

9 MR. MANGAN: Just one moment, Your Honor.

10 THE COURT: Yes.

11 MR. MANGAN: Your Honor, we'd strike Number 33.

12 THE COURT: 33 is stricken. Defense ready for its  
13 ninth Peremptory Challenge?

14 MR. MIEDEL: Yes, Number 25.

15 THE COURT: Number 25 is stricken. Is the  
16 Government ready to issue its sixth and final Peremptory  
17 Challenge as to Jurors?

18 MR. MANGAN: One quick moment, Your Honor.

19 THE COURT: Yes. Yes.

20 (Mr. Mangan confers with co-counsel.)

21 MR. MANGAN: Your Honor, we'd strike Number 30.

22 THE COURT: Number 30 is stricken by the  
23 Government. And we come to Defense for his tenth final  
24 Peremptory Challenge as to Jurors?

25 MR. MIEDEL: Your Honor, the last Challenge is



1 Number 17.

2 THE COURT: 17. 17 is stricken. Give me just a  
3 moment. I'd like to identify those 12 that I think have  
4 been identified as Jurors, and then we'll proceed to  
5 Alternates if there's confirmation.

6 I see our Jurors as including Numbers 2, 3, 4, 6,  
7 8, 11, 12, 19, 20, 23, 27, 29.

8 Is the Government able to confirm its  
9 understanding?

10 MR. MANGAN: That's our understanding, yes.

11 THE COURT: And the Defense?

12 MR. MIEDEL: One moment, Your Honor?

13 THE COURT: Yes.

14 (Mr. Miedel confers with co-counsel.

15 MR. MIEDEL: Your Honor, you skipped over seven, is  
16 that because you've decided to strike him for Cause?

17 THE COURT: Yeah, we did that before the break.  
18 That's the guy with the --

19 MR. MIEDEL: Right. I thought maybe, I thought --  
20 I thought I heard you say you were reserving on that.  
21 Perhaps I misunderstood.

22 THE COURT: Seven has been excused.

23 MR. MIEDEL: Okay.

24 THE COURT: It was before the break.

25 MR. MIEDEL: In that case we are -- we agree that

1       that is the correct list.

2               THE COURT:   That these are the 12?   Thank you.  
3       We've been planning on three Alternate strikes --   three  
4       Alternates who -- who is the Government's first Alternate  
5       strike?

6               MR. MANGAN:   35, Your Honor.

7               THE COURT:   35.   Who is the Defense's first  
8       Alternate strike?

9               MR. KOHNEN:   27, Your Honor.

10              THE COURT:   27 is stricken.

11              MS. GLATFELTER:   Your Honor, I thought 27 was on  
12       the panel?

13       (the Court confers with Ms. Frankian.)

14              THE COURT:   27 is on the Jury.   So you can't strike  
15       that.   29 forward.

16              MR. MIEDEL:   We need just one minute.

17              THE COURT:   You're doing fine.

18       (Mr. Miedel confers with co-counsel.)

19              MR. MIEDEL:   Your Honor, Number 37.

20              THE COURT:   Number 37 is stricken.   The Government  
21       have its final strike as to Alternates?

22              MR. MANGAN:   Your Honor, 39.

23              THE COURT:   39.   39 is stricken.   And does the  
24       Defense have its last Alternate strike?

25       (Mr. Miedel confers with co-counsel.)

1 MR. MIEDEL: Your Honor, we'll strike Number 40.

2 THE COURT: Number 40. I believe that the three  
3 Alternates are 34, 38, and 41, and ask when you're ready to  
4 confirm if that's your understanding?

5 MR. MANGAN: That's our understanding, Your Honor.

6 THE COURT: From the Government.

7 MR. FLORIAN: Yes, that is our understanding.

8 THE COURT: From the Defense as well. We have 12  
9 Jurors and three Alternates, and we have completed the task  
10 to date. Are we ready to bring down the Jurors, the  
11 Alternates, and the balance of the panel from the  
12 Government's perspective?

13 MR. MANGAN: We're prepared, yes.

14 THE COURT: Defense?

15 MR. KOHNEN: Yes, Your Honor.

16 THE COURT: Very well. Ms. Santoro, would you call  
17 for those -- for all Jurors, please?

18 COURTROOM DEPUTY: Yes, Judge.

19 (Discussion held off the record.)

20 THE COURT: While we're in recess, we'll go back on  
21 the record before the Jurors come through the door. We're  
22 going to bring them down, all of them, put them in the back.  
23 We're going to call up the 15, put them in the box --

24 MR. KOHNEN: They're at the door. Well, they're  
25 filling in.

1 THE COURT: The Marshal's guarding the door. I  
2 don't want them in here, so will you guard the door, please?  
3 Thank you.

4 All right. Outside the presence of the Jurors.  
5 We're going to bring everybody back. We're going to put  
6 them in the gallery. We're going to call forward the 15,  
7 put them in the box. We're going to excuse all of the  
8 others and thank them.

9 We're then going to instruct the Jury  
10 preliminarily, and then we would pause, break, and the next  
11 thing would be opening statements.

12 I don't -- if we're doing opening statements, I  
13 want both of them on the same day. Do you want to break  
14 after we pick the Juries and do opening statements in the  
15 morning or would you like to plunge ahead or would you leave  
16 that to my -- does the Government have a position?

17 MS. GLATFELTER: Your Honor, as much as we'd like  
18 to move ahead, I think it will be late by the time we get  
19 started; and I think, you know, Mr. Kohnen could get  
20 started, go until past 5 o'clock probably, which is also  
21 probably not the situation we want to have for the Jurors,  
22 so I would propose tomorrow morning to do both of them.

23 THE COURT: And what's the Defense's sense?

24 MR. KOHNEN: Judge, I agree with Ms. Glatfelter.  
25 We promised them that we'd finish at 4:30, and I don't want

1 to get off on the wrong foot.

2 THE COURT: I agree. We'll push closing -- opening  
3 statements till tomorrow. We've all been through a ringer.  
4 There's nothing wrong with taking a break and coming back  
5 fresh in the morning to go with opening statements. I think  
6 it's also of an assistance to the Jury.

7 Did you acknowledge Mr. Kohnen that Ms. Glatfelter  
8 was looking out for you in suggesting that if you went  
9 second this afternoon, you'd be rushed?

10 MR. KOHNEN: I will be eternally grateful until  
11 tomorrow morning.

12 THE COURT: The record shall reflect that. Thank  
13 you, Mr. Kohnen. All right. We can have the Jurors come  
14 in. Thank you, Madam Marshal.

15 COURTROOM DEPUTY: All rise for the Jury.  
16 (Prospective Jurors entered the Courtroom.)

17 MR. MANGAN: Did you want --

18 THE COURT: Oh, I'm sorry. Excuse me. We're  
19 putting them all in the gallery; right? All of them in the  
20 gallery. Festival seating in the gallery as distanced as  
21 you can be.

22 You don't have to sit in your Juror number. You  
23 have to sit in the gallery. Try and social distance as best  
24 you can. This will just take a moment. Thank you, Mr.  
25 Mangan. Did you hear me?

1 MR. MANGAN: Yes.

2 THE COURT: Everybody in the gallery, we don't have  
3 to sit in your assigned seat. Try and social distance as  
4 best you can. This will just be for a moment.

5 Sit anywhere you wish. Not in your number  
6 necessarily. All in the gallery. Try and social distance  
7 as best you can.

8 All are seated in the gallery. You don't have to  
9 be in your correct number. Social distance as best that  
10 you're able.

11 If you've arrived, you may all be seated. Do we  
12 know that all persons, Jurors, are here? Somebody's  
13 counted?

14 COURTROOM DEPUTY: Yes, they have.

15 THE COURT: Very well. Welcome back and thank you  
16 for your patience to the Prospective Jurors now all seated  
17 in the gallery.

18 We've reached our decision, and I'm now going to  
19 call forward the 15 of you who have been selected as Jurors  
20 in this case.

21 As I call your name -- number, please step forward  
22 and walk up here to Ms. Santoro, who will direct you to a  
23 seat of the Jury box. We're putting all 15 in the Jury box  
24 briefly.

25 Once you're seated, I'm going to make a brief

1 statement, and then I'm going to go ahead and excuse  
2 everyone else in the gallery.

3 After everyone else has left, the 15 in the box  
4 will be sworn in as Jurors, and then we'll move you -- most  
5 of you back into the gallery to an assigned seat so that  
6 everyone is socially distanced.

7 When I spoke with you earlier this morning, I urged  
8 you not to be offended if you'd been selected for the Jury.  
9 If you have been selected for the Jury, I urge you not to be  
10 disappointed nor ecstatic, and here we are.

11 Juror Number 2, if you would approach Ms. Santoro.  
12 Juror Number 3, Juror Number 4, Juror Number 6, Juror Number  
13 8, Juror Number 11, Juror Number 12, Juror Number 19,  
14 Juror 20, Juror 23, Juror 27, Juror Number 29, Juror  
15 Number 34, Juror Number 38, Juror Number 41.

16 Ms. Santoro, we have 15 in the Jury box; is that  
17 right?

18 COURTROOM DEPUTY: That's correct, Judge.

19 THE COURT: Thank you. As to the 15, if you sit --  
20 sitting in the box, you've all been asked questions in  
21 order to determine your ability to make decisions in this  
22 case, free from any bias or sympathy for or against either  
23 side.

24 I must now ask some final possibly repetitive  
25 questions to ensure your qualifications as Jurors. Please

1 bear with me as I ask those questions now.

2 Is there anyone in the Juror box that cannot  
3 promise to decide this case strictly on the facts as  
4 developed from the witness stand, and the exhibits admitted  
5 into evidence, and the law as I give it to you?

6 (No Prospective Juror raised their hand.)

7 THE COURT: I see no hands.

8 Is there anyone here who cannot promise to keep an  
9 open mind, not discuss the case with anyone, including your  
10 fellow Jurors, throughout the entire trial until you're  
11 ordered to retire to the Jury Room to deliberate?

12 (No Prospective Juror raised their hand.)

13 THE COURT: I see no hands.

14 Can any of you think of any reason why you could  
15 not be fair and impartial in carrying out your duties in  
16 this trial?

17 (No Prospective Juror raised their hand.)

18 THE COURT: I see no hands. Finally, is there any  
19 reason at all why any of you feel that you could not or  
20 should not serve on this Jury?

21 (No Prospective Juror raised their hand.)

22 THE COURT: I see no hands. This is my last  
23 chance. I've determined you 15 are our Jury. I can't find  
24 out tomorrow that you have a dentist appointment or  
25 something that's going to interfere with your being here.



1 I've still got people I could plug in.

2 Does anyone have any conflict with attending the  
3 trial on every day as currently calendered beginning at  
4 9:30, in the courthouse at 9:15? We'll try and get you out  
5 at 4:30.

6 Anything that's going to interfere with that? Is  
7 there anyone in the box among the 15 who have anything they  
8 need to tell me?

9 (No Prospective Juror raised their hand.)

10 THE COURT: Thank you. You are our Jury. I'll be  
11 back to you.

12 To those of you seated in the gallery and not  
13 selected, I want to thank you for coming. It's impossible  
14 to determine at the outset how many Prospective Jurors need  
15 to be summonsed in order for us to seat a Jury.

16 Even though you were not selected to serve on this  
17 Jury, please know that your presence and participation in  
18 the Jury selection process is a important contribution to  
19 the workings of this court.

20 Jury service is one of the most important  
21 activities of being a United States citizen. I believe it's  
22 a sacrifice required by democracy. We very much appreciate  
23 your willingness to serve.

24 Those of you not selected still in the gallery are  
25 excused with our gratitude. I hope a piece of this was of

1 interest, and you are free to leave the courthouse. We will  
2 rise out of respect for you as you leave for the day.

3 COURTROOM DEPUTY: All rise.

4 (Prospective Jurors not selected exited the Courtroom.)

5 THE COURT: The balance of the Jury venire have  
6 been excused. You may all be seated. 15 Jurors remain  
7 present in the Jury box. The others are gone. I did not  
8 hear any high fiving, and I want to thank the 15 of you for  
9 the commitment you've taken on.

10 Ms. Santoro, I would ask that you please swear in  
11 the Jury to service. If you would stand and raise your  
12 hand, and you're going to be sworn to decide this case  
13 fairly.

14 COURTROOM DEPUTY: Do you, and each of you, do  
15 solemnly swear or affirm that you will well and truly try,  
16 and true deliverance make, in the case now in trial and  
17 render a true verdict according to the law and the evidence.  
18 Respond by saying I do.

19 ALL JURORS: I do.

20 THE COURT: Thank you, all. We're now going to  
21 seat them social distanced in the box and in the gallery.  
22 Ms. Santoro's going to assist with this, and this should be  
23 something to behold.

24 (Laughter.)

25 COURTROOM DEPUTY: So all but three will come back.

1       So are we starting with the back?

2               MS. FRANKIAN:   Yes, the back row one and the far  
3       right, one in the middle, and one on the far left, and then  
4       in the gallery it's the second and the fourth row, and I  
5       think there's a sticker -- a red sticker --

6               COURTROOM DEPUTY:   Okay.

7               MS. FRANKIAN:   -- where they should sit.

8               COURTROOM DEPUTY:   So if you want to follow me down  
9       this front row.

10              THE COURT:   Is there anyone in here who has trouble  
11       with vision, such that you need to be in the box with a  
12       screen very close to you or on the edges where the big  
13       screens are?  Although we'll have a big screen in the  
14       middle.  Two small screens in the middle.

15              Anybody who needs to have the screen right up close  
16       to them?

17       (No Prospective Juror raised their hand.)

18              THE COURT:   Very well.  Now that I've assisted --

19              COURTROOM DEPUTY:   Thank you, Judge.

20              THE COURT:   -- would you continue the exercise?

21              COURTROOM DEPUTY:   So we're only going to have  
22       three in the box?  So you three (Indicating) stay here.  The  
23       rest of you come with me.  Two in the back.  One in the  
24       front.

25       (Jurors were seated socially distanced.)

1           THE COURT: You may all be seated. In the second  
2 row to my left, why are those two -- they're in separate  
3 rows, okay. It looks like people are socially distanced.  
4 To those three in the box, you're not special. It just  
5 worked out that way.

6 (Laughter.)

7           THE COURT: Thank you for your understanding. So  
8 the seat you're in now is your seat for the duration of  
9 trial. Make sure you remember where it is.

10           I prefer you didn't carve your initials in it, but  
11 I want you to be able to get to your own seat without a lot  
12 of direction; understood?

13 (Jurors nod their heads affirmatively.)

14           THE COURT: Very well. Members of the Jury, I'm  
15 going to give you some preliminary instructions to guide you  
16 in your participation in the trial now that you've been  
17 sworn.

18           Please pay special attention and listen carefully.  
19 I know that you will. I'm going to have to read some stuff  
20 to you.

21           The last time somebody read to me out loud, it was  
22 my mother trying to get me to go to sleep. I urge you not  
23 to go to sleep.

24           If it's any help, once I get through these  
25 instructions, I'm going to let you go for the day. You've

1       been here for a long time. It's quarter of three. We'll  
2       get these instructions under our belt. I'll remind you  
3       about what not to do when you're outside the presence of the  
4       courtroom, and we'll send you home.

5               When you come back tomorrow, you need to be in the  
6       ninth floor Jury Room by 9:15, and we will endeavor to get  
7       you down here at 9:30.

8               We'll start with opening statements. That is not  
9       evidence, and then we'll begin to hear evidence. So here  
10      are the preliminary instructions.

11              Duty of the Jury. It will be your duty to find  
12      from the evidence what the facts are. You, and you alone,  
13      will be the judges of the facts.

14              When the time comes, I will instruct you on the  
15      relevant law. You'll then apply those facts to the law that  
16      I will give you, and you must follow that law whether you  
17      agree with it or not.

18              Nothing the Court -- I, this Judge -- may say or  
19      do during the course of trial is intended to indicate in any  
20      way or should be taken by you as indicating what your  
21      verdict should be.

22              As to evidence, the evidence from which you will  
23      find the facts will consist of the testimony of witnesses,  
24      documents, and other items received into the record as  
25      exhibits, and any facts that the lawyers agree to or

1 stipulate to that I will tell you about or anything the  
2 Court instructs you to find.

3 Certain things are not evidence and must not be  
4 considered by you. I'll list them for you now: Statements,  
5 arguments, and questions by lawyers are not evidence.  
6 Objections to questions are not evidence.

7 Lawyers have an obligation to their clients to make  
8 objections when they believe evidence is being offered  
9 improperly under the Rules of Evidence. Should not be  
10 influenced by the objection or by my ruling on it.

11 If the objection is sustained, in other words  
12 upheld, then ignore the question. If the objection is  
13 overruled, then treat the answer like any other; and if  
14 you are instructed that some item of evidence is received  
15 for a limited purpose only, you must follow that  
16 instruction.

17 Testimony that the Court has excluded or told you  
18 to disregard is not evidence and must not be considered.  
19 Anything you may have seen or heard outside the courtroom  
20 is not evidence and must be disregarded. You are to decide  
21 the case solely on the evidence presented here in the  
22 courtroom.

23 There are two kinds of evidence, direct and  
24 circumstantial. Direct evidence is direct proof of a fact,  
25 such as testimony of an eyewitness. For example, if a

1 witness testified that he saw it raining outside, you  
2 believed him, that would be direct evidence that it was  
3 raining.

4 Circumstantial evidence is proof of facts from  
5 which you may infer or conclude that other facts exist. For  
6 example, if someone walked into the courtroom wearing a  
7 raincoat covered with drops of water and carrying a wet  
8 umbrella, that would be circumstantial evidence from which  
9 you could conclude that it was raining.

10 Direct and circumstantial evidence are afforded the  
11 same weight. I will give you further instructions on these  
12 as well as other matters at the end of the case and perhaps  
13 in the middle-ish, but keep in mind you may consider both  
14 direct and circumstantial evidence.

15 It will be up to you to decide which witnesses to  
16 believe, which witnesses not to believe, or how much of any  
17 witness's testimony to accept or reject.

18 I'll give you some guidelines for determining the  
19 credibility of the witnesses at the end of the case.

20 As to rules for criminal cases. As you know, this  
21 is a criminal case. There are three basic rules about a  
22 criminal case that you must keep in mind.

23 First, the Defendant is presumed guilty until  
24 proven -- is presumed innocent until proven guilty. That's  
25 the basic one. Perhaps I ought to state it accurately. The

1 Defendant is presumed innocent until proven guilty.

2 The charges brought by the Government against the  
3 Defendant are only accusations. Nothing more. It's not  
4 proof of guilt or anything else. The Defendant, therefore,  
5 starts out with a clean slate.

6 Second, the burden of proof is on the Government  
7 until the very end of the case. The Defendant has no burden  
8 to prove his innocence or to present any evidence or to  
9 testify.

10 Since the Defendant has the right to remain silent,  
11 the law prohibits you from arriving at your verdict by  
12 considering that the Defendant may have not testified or may  
13 not have called witnesses or presented evidence.

14 Third, the Government must prove the Defendant's  
15 guilt beyond a reasonable doubt. Proof beyond a reasonable  
16 doubt means proof which is so convincing that you would not  
17 hesitate to rely and act upon it in making the most  
18 important decisions in your own lives.

19 I will give you further instructions on this point  
20 later, but bear in mind that in this respect a criminal case  
21 is different from a civil case.

22 Summary of the case. I'm now going to give you a  
23 brief overview of the Government's allegations in this case.  
24 This is just a short summary. You remember that these are  
25 the Government's allegations. The Defendant is presumed



1 innocent.

2 The Defendant, Yanjun Xu, is a citizen and resident  
3 of the People's Republic of China. The Government alleges  
4 that Defendant is also a Deputy Division Director with the  
5 Regional Sector of the Ministry State Security, MSS, for the  
6 People's Republic of China. MSS is China's Intelligence and  
7 Security Agency.

8 The Government alleges that part of Defendant's  
9 alleged duties on behalf of MSS, Defendant worked with other  
10 MSS officers as well as other institutions operated by the  
11 Chinese Government to unlawfully obtain trade secrets from  
12 aviation and aerospace companies in the United States and  
13 Europe all for the benefit of People's Republic of China and  
14 its various agencies and instructions.

15 In this case the Defendant is charged in a document  
16 called an indictment with four counts.

17 Count 1 charges Conspiracy to Commit Economic  
18 Espionage. The Government alleges that from 2013 to April 1  
19 of 2018, Defendant engaged in a conspiracy to, without  
20 authorization, obtain, steal, receive, buy, or possess trade  
21 secrets belonging to various aviation and aerospace  
22 companies in the United States and Europe all for the  
23 benefit of the Chinese Government.

24 Count 2 charges Conspiracy to Commit Trade Secret  
25 Theft. The Government alleges that from 2013 to April 1,

1       2018, Defendant engaged in a conspiracy to, without  
2       authorization, obtain, steal, receive, buy, or possess trade  
3       secrets belonging to various aviation and aerospace  
4       companies in the United States and Europe for the economic  
5       benefit of everyone other than the owner of the trade secret  
6       and with the intention and knowledge that the offense will  
7       injure the owner of that trade secret.

8               Count 3 charges Attempted Economic Espionage. The  
9       Government alleges that from May 2017 to April 1, 2018,  
10      Defendant attempted to, without authorization, obtain,  
11      steal, receive, buy, or possess trade secrets belonging to  
12      GE Aviation all for the benefit of the Chinese Government.

13              Count 4 charges Attempted Trade Secret Theft. The  
14      Government alleges that from May 2017 to April 1, 2018, the  
15      Defendant attempted to, without authorization, obtain,  
16      steal, receive, buy, or possess trade secrets belonging to  
17      GE Aviation and did so for the benefit of someone other than  
18      GE Aviation and with the intention and knowledge that the  
19      offense will injure GE Aviation.

20              The Defendant denies these charges and is presumed  
21      innocent.

22              As to the charges, I'll give you detailed  
23      instructions on the law at the end of the case, and those  
24      instructions will control your deliberations and decision.

25              Now, conduct of the Jury. A few words about your

1       conduct as Jurors. Just to be clear, these rules apply  
2       going forward regardless of whether you are in the courtroom  
3       or not.

4               So even when you're out during your lunch break or  
5       when you go home in the evening or over the weekend, you're  
6       still bound by the rules I'm about to discuss with you.

7               First, you as Jurors must decide this case based  
8       solely on the evidence presented here within the four walls  
9       of this courtroom.

10              This means that during the trial, you must not  
11       conduct any independent research about this case, about any  
12       of the matters in the case, and/or about any of the  
13       individuals involved in the case.

14              In other words, you cannot, shall not search the  
15       Internet, websites, or blogs, or use any other electronic  
16       tools to obtain information about this case or to help you  
17       decide this case.

18              You should not consult dictionaries, if you're  
19       familiar with what they are, or reference materials nor do  
20       any independent research. You may not try to find out  
21       information from any source outside the confines of this  
22       courtroom.

23              Second rule is that until the trial is completely  
24       over, you may not discuss this case with anyone; and when I  
25       say anyone, I mean, anyone: Not your family. Not your

1 spouse. Not your significant other. Not your children.  
2 Not your friends. Not your co-workers. Not your Twitter  
3 followers. No one. In fact, until you retire for  
4 deliberations, you may not even discuss the case with your  
5 fellow Jurors.

6 Only after you retire and begin your deliberations,  
7 will you be allowed to begin to discuss the case and discuss  
8 it fully among yourselves.

9 But even then you still cannot discuss the case  
10 with anyone else until you've returned a verdict in this  
11 courtroom to me, and the case is at an absolute end.

12 Also I'm sure that many, if not all, of you  
13 communicate with others using some form of technology or  
14 some electronic device, smartphones, iPhones, iPads,  
15 computers, other forms of technology. Keep in mind that  
16 when I tell you not to communicate with others about this  
17 case, that also means that you cannot use any of your  
18 electronic devices to communicate with anybody about the  
19 case.

20 In fact, cell phones must be turned off at all  
21 times when you're in the courtroom, and they will not be  
22 permitted in the Jury Room during deliberations.

23 So, again, you may not communicate with anybody  
24 about the case, whether it's in-person, on your cell phone,  
25 smartphone, iPhone, iPad, tablet, or computer, whether it's

1 through E-Mail, text message, blog, website, Twitter,  
2 Snapchat, Instagram, Facebook, LinkedIn, or YouTube.

3 I know -- or my people do -- that there are many  
4 other modes of communication and social media platforms that  
5 I didn't mention, but whether or not I specifically  
6 mentioned them doesn't matter. You can't use any of it to  
7 talk about the case or independently research the case.

8 Also if you become aware that another Juror has  
9 violated any of these instructions, you must inform either  
10 Ms. Santoro, Ms. Frankian, or me right away.

11 A Juror who violates any of these rules,  
12 jeopardizes the fairness of these proceedings and a mistrial  
13 could result, which would require the entire progress to  
14 start over.

15 Finally, do not form any opinion until all the  
16 evidence is in. Keep an open mind until you start your  
17 deliberations at the end of the case.

18 As to note-taking. If you want to take notes  
19 during the course of the trial, we'll provide you with a pen  
20 and a notebook to do so.

21 However, it's very difficult to take detailed notes  
22 and pay attention to what the witnesses are saying at the  
23 same time.

24 If you do take notes, be sure that your note-taking  
25 does not interfere with your listening to and considering

1 all of the evidence.

2 Also if you do take notes, do not discuss them with  
3 anyone until you begin your deliberations. Do not take your  
4 notes with you at the end of the day. Be sure to leave them  
5 in the Jury Room.

6 If you choose not to take notes, remember that it  
7 is your own individual responsibility to listen carefully to  
8 the evidence. You cannot give this responsibility away and  
9 rely on someone who's taking notes.

10 We rely on the judgment of all members of the Jury.  
11 You must all remember the evidence in this case. We're not  
12 going to be able to give you transcripts.

13 During the course of the trial. Tomorrow morning  
14 when you come back, the attorneys will make opening  
15 statements. The Government will go first, and then the  
16 Defense. An opening statement is merely an outline to help  
17 you understand the evidence as they expect it to come in  
18 during the case.

19 Opening statements are neither evidence nor  
20 arguments. They're supposed to be a road map of what the  
21 evidence the lawyers expect to be.

22 After all of the evidence is in, after all  
23 witnesses have testified, I will instruct you in the law,  
24 and you'll hear closing arguments from both sides.

25 Closing arguments are not evidence. You will then

1 be excused and taken to the Jury Room to begin  
2 deliberations. That concludes Jury selection and your  
3 preliminary instructions.

4 Momentarily, I'm going to release you for the day.  
5 I'm going to get my eyes out of the paperwork and talk to  
6 you about not discussing this case.

7 Every day when I go home my wife asks me, what  
8 happened in court today? I would presume that in your lives  
9 when you go home to your family and friends, people will ask  
10 you, what's going on? What kind of case is it? What did  
11 you hear? Who said what?

12 You cannot answer any of that. You need to tell  
13 them that the Federal Judge has instructed you not to  
14 discuss the case with anyone, including your loved ones.

15 So I'm going to release the Jury momentarily. Is  
16 there anything the lawyers need from me in the presence of  
17 the Jury before I get ready to excuse them, Mr. Mangan?

18 MR. MANGAN: No, Your Honor. Thank you.

19 THE COURT: Defense?

20 MR. KOHNEN: No. Thank you, Judge Black.

21 THE COURT: Very well. All right. Until the case  
22 is completed, you must not discuss this case with anyone.  
23 This includes members of your family and people involved in  
24 the trial, and your fellow Jurors or anyone else.

25 Further this applies to all forms of

1       communications, including phone, E-Mail, text, Facebook,  
2       Twitter, et cetera.

3               I think there's going to be an inherit pressure to  
4       tell your loved ones something. Yeah, it's an espionage  
5       case. You may not do that. The minute you answer one  
6       question, there's going to be a follow-up question.

7               Tell them the judge has ordered you on threat of  
8       Contempt not to discuss the case with anyone.

9               Someone approaches you and tries to discuss the  
10       trial with you, let me know about it immediately. You may  
11       not conduct any independent research about the trial, read,  
12       listen to, or watch any news reports of the trial.

13               You may not check or use Google, Facebook, Twitter,  
14       et cetera, to find information about any aspect of the case.

15               Finally, remember that it's especially important  
16       that you keep an open mind. Do not form or express an  
17       opinion on the case until it's finally submitted to you  
18       after all of the evidence and all the witnesses have  
19       testified.

20               I'll make an effort to remind you of these rules  
21       each time we break, but even if I forget to remind you, the  
22       rules remain in effect throughout the entire trial.

23               I don't think I can fully express or that you can  
24       fully infer or read from me how grateful I am on behalf of  
25       the court and the community, and how grateful the lawyers



1 and the parties and the Defendant are for you taking on  
2 this work. It's an extraordinary credit to you, and I thank  
3 you.

4 I'm going release you momentarily. You're welcome  
5 leave and go back to your home and to your loved ones. Get  
6 a good dinner. Sleep well. Come back to the courthouse by  
7 9:15 to the floor -- the room on the ninth floor, and we'll  
8 try and get you at 9:30 and bring you into the courtroom.

9 Are there any pressing questions from the Jurors  
10 before I wave good-bye for the day?

11 A JUROR: I have one question. So which Jurors  
12 are going to be deliberating and which ones are the  
13 Alternates?

14 THE COURT: And I'm sorry to tell you that's my  
15 secret.

16 A JUROR: Oh.

17 THE COURT: We need you here, and if I tell you  
18 you're an Alternate, maybe you might not be interested. So  
19 we never tell the Alternates who they are, and then at the  
20 end of the case, I have the unfortunate experience of  
21 saying, thank you for sitting here. I'm going to release  
22 you before deliberations.

23 I will sit with you personally and hear what you  
24 think or have thought after the case is over.

25 Are there any compelling questions from the Jurors

1 before I release you from the day?

2 Out of respect for you, we'll rise as you leave.

3 See you at 9:30. Here at the courthouse at 9:15. If  
4 somebody in the gallery would lead the group out? Anybody,  
5 start walking out.

6 (Jury exited the Courtroom.)

7 THE COURT: Jurors have left the room, and the door  
8 is closing. I think we're ready to break, but -- no, we're  
9 not. We need to address something. Should we do that now?

10 If you may, we'll all be seated, please. Ms.  
11 Frankian, if you will join me, please? Who wishes to bring  
12 something to the Court's attention from the Defendant's  
13 perspective?

14 MR. McBRIDE: I will, Your Honor, if I may.

15 THE COURT: Very well.

16 MR. McBRIDE: Judge, I want to follow-up --

17 THE COURT: Very well. Are you comfortable coming  
18 to the podium --

19 MR. McBRIDE: Yes, sir.

20 THE COURT: -- or prefer to be there? I want to be  
21 able to grab you.

22 MR. McBRIDE: Whatever's easiest, Judge.  
23 Whatever's easiest. I want to follow-up on perhaps  
24 something Mr. Mangan and Mr. Kohnen were talking about this  
25 morning.

1           The stipulations. We received important  
2           information from the Government yesterday, which we  
3           appreciated; and we are going to be able to enter into  
4           stipulations, but I just want to make sure that we're clear  
5           on the record on what those are.

6           Those stipulations that the Government has asked  
7           for go to the authenticity of the subscriber information for  
8           basically E-Mail accounts.

9           We are not agreeing to the authentication of the  
10          content of those E-Mail accounts, and the Government bears  
11          the burden of -- or the burden of production to get those  
12          in. I want to make that clear for the Court.

13          Secondly, the -- there are three E-Mails that the  
14          Government has shared with us yesterday that they have --  
15          that there are more than one people who are using these  
16          accounts or have access to these accounts, and I'd just like  
17          to bring them to the attention of the Court.

18          It's jast -- J-A-S-T -- xyj@gmail.com. Waiting for  
19          Ms. Frankian, Your Honor. JAST -- I only spell this because  
20          it's a name -- QH -- I'm sorry -- Q-U-H-U-I@gmail.com; and  
21          the third one is jastburton -- B-U-R-T-O-N -- @gmail.com.

22          Our position is going to be, Your Honor, that those  
23          can't be -- the content of those cannot be authenticated. I  
24          just want to bring those to the Court's attention so we can  
25          -- so we're all on the same sheet of paper when we address

1       it, Your Honor.

2               THE COURT: I really appreciate the heads-up  
3       approach.

4               MR. McBRIDE: Thank you, Your Honor.

5               THE COURT: Is there more that you wanted to bring  
6       to the Court's attention?

7               MR. McBRIDE: No, Your Honor.

8               THE COURT: Very well. You may step down.

9               MR. McBRIDE: Thank you.

10              THE COURT: Does the Defense wish to be heard in  
11       any regard -- in that regard -- or the Government? Sorry.

12              MR. MANGAN: That's all right. Just briefly, Your  
13       Honor. It sounds like some of this may be hashed out as we  
14       go along. I would want to point out, first of all, the  
15       information. We did provide that information yesterday, and  
16       what we agreed to -- get to is that the issue with the IP  
17       addresses indicated that there may be multiple people using  
18       the account. That didn't mean that that was the only  
19       explanation for what was going on with the IP addresses.

20              We also would like to say that, you know, there's  
21       two things involved. One is, you know, the authentication  
22       of the evidence; but then, secondly, you know, are there any  
23       issues with respect to hearsay, so forth like that.

24              With respect to authentication, that is a fairly  
25       low bar. To the extent we have sought these records from

1 Google or from Apple, and they provide the certification  
2 that says, for this account address, these are the records  
3 that we have as a subscriber, and these are the records that  
4 we have related to the account, we believe that the  
5 certification will be sufficient.

6 We also intend to present evidence tying the  
7 accounts together and tying the accounts to the Defendant,  
8 both through external sources as well as the content of the  
9 accounts themselves.

10 THE COURT: Very well.

11 MR. MANGAN: And if -- unless we're going on to  
12 other issues, there was one other item --

13 THE COURT: I was going to give Mr. McBride --

14 MR. MANGAN: Okay.

15 THE COURT: -- an opportunity to respond to that  
16 from where you are, sir --

17 MR. McBRIDE: Yes, sir.

18 THE COURT: -- if you need to.

19 MR. McBRIDE: Your Honor, I think we have a  
20 disagreement about the law, but I don't believe this is the  
21 time or place to make that argument.

22 THE COURT: I'm going to get that printed up. Put  
23 it on a wall. Thank you. I just wanted to give you that  
24 chance.

25 MR. McBRIDE: Thank you, sir.

1           THE COURT: All right. Now, did the Government --  
2           has the Defense brought everything to the Court's attention  
3           that you wish to?

4           MR. McBRIDE: Yes, Your Honor. Thank you.

5           THE COURT: Does the Government have additional  
6           items?

7           MR. MANGAN: Just one item, Your Honor. With  
8           respect to the opening statements, I know the Court has  
9           indicated your ruling with respect to the Defendant's  
10          Rule 404(b) Motion.

11          The way we responded to those, we presented  
12          alternative ways that that would be admissible. So when we  
13          present those, especially in opening, we want to just  
14          clarify -- are there any limitation from the Court's  
15          perspective as to whether or not those are perceived as  
16          direct evidence versus other acts evidence or something like  
17          that that we should be aware of?

18          THE COURT: So-called other acts, the Court has  
19          determined are intrinsic to the offense, and they also speak  
20          to the motivation, intent, modus operandi and the like. Did  
21          I respond to your inquiry?

22          MR. MANGAN: Yes, Your Honor, you did.

23          THE COURT: Okay. Is there more you want to run by  
24          me today --

25          MR. MANGAN: No, Your Honor. Thank you.

1           THE COURT:  -- from the Government?  Okay.  Is  
2           there anything else today from the Government --  Defense?

3           MR. McBRIDE:  No, Your Honor.

4           THE COURT:  Very well.  We're going to recess.  I'd  
5           like you here by, whatever we said, 9:15 at the latest, so  
6           we can start at 9:30.

7           I want you to rest well tonight -- although I know  
8           you won't -- and I want to tell you that I'm enormously  
9           impressed by the excellence of all of the attorneys.  We're  
10          in recess.

11          COURTROOM DEPUTY:  All rise.  Court's now in  
12          recess.

13          (Court recessed at 3:16 p.m.)  
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1  
2 CERTIFICATE OF REPORTER

3  
4 I, Julie Hohenstein, Federal Official Realtime  
5 Court Reporter, in and for the United States District Court  
6 for the Southern District of Ohio, do hereby certify that  
7 pursuant to Section 753, Title 28, United States Code that  
8 the foregoing is a true and correct transcript of the  
9 stenographically reported proceedings held in the  
10 above-entitled matter and that the transcript page format is  
11 in conformance with the regulations of the Judicial  
12 Conference of the United States.

13  
14  
15 s/Julie Hohenstein

November 2, 2021

16 **JULIE HOHENSTEIN, RPR, CRR, RMR**  
17 FEDERAL OFFICIAL COURT REPORTER  
18  
19

20 I certify that the foregoing is a true and  
21 correct copy of the transcript originally filed with the  
22 clerk of court on November 2, 2021, and incorporating  
23 redactions requested by Judge Timothy S. Black, in  
24 accordance with Judicial Conference policy. Redacted  
25 characters appear as a black box in the transcript.

s/Julie Hohenstein

November 5, 2021

**Julie Hohenstein, RPR, CRR, RMR**